

AMENDED IN SENATE SEPTEMBER 2, 2005

AMENDED IN SENATE SEPTEMBER 1, 2005

AMENDED IN SENATE JULY 13, 2005

AMENDED IN ASSEMBLY APRIL 28, 2005

AMENDED IN ASSEMBLY APRIL 12, 2005

CALIFORNIA LEGISLATURE—2005—06 REGULAR SESSION

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**ASSEMBLY BILL****No. 1060**

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**Introduced by Assembly Member Liu**

February 22, 2005

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An act to amend Sections 11106, 11108, 11108.3, 12001, 12021.3, 12026.2, 12028.5, 12036, 12070, 12071, 12072, 12076, 12078, 12082, 12132, and 12305 of, to repeal Section 12084, and to amend Section 26 of Chapter 23 of the Statutes of 1994, relating to firearms.

LEGISLATIVE COUNSEL'S DIGEST

AB 1060, as amended, Liu. Firearms.

Existing law authorizes law enforcement agencies to report certain information to the Department of Justice pertaining to a firearm when the firearm is taken into custody for safekeeping by the agency.

This bill would require the law enforcement agency to report the information to the department.

By imposing additional duties in connection with the custody of firearms upon local law enforcement entities, this bill would impose a state-mandated local program.

Existing law provides that where neither party to a firearm transaction is a licensed firearms dealer, the parties may complete the transaction through a sheriff's department, as specified.

This bill would repeal those provisions and make additional conforming technical changes consistent with the repeal. The bill would make other technical changes.

Existing law generally regulates the licensing and conduct of firearms dealers.

The bill would require dealers to store all inventory firearms in secure storage, as specified.

The bill would make additional technical and conforming changes.

This bill would incorporate additional changes to Section 11106 of the Penal Code proposed by AB 1288, to Section 11108 of the Penal Code proposed by AB 86, to Section 12001 of the Penal Code proposed by SB 59, and to Sections 12071, 12072, 12076 and 12078 of the Penal Code, proposed by AB 754, to become operative if this bill and those bills, respectively, are enacted and become effective on or before January 1, 2006, and this bill is enacted last.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 11106 of the Penal Code is amended to  
2     read:  
3     11106. (a) In order to assist in the investigation of crime, the  
4     prosecution of civil actions by city attorneys pursuant to  
5     paragraph (3) of subdivision (c), the arrest and prosecution of  
6     criminals, and the recovery of lost, stolen, or found property, the  
7     Attorney General shall keep and properly file a complete record  
8     of all copies of fingerprints, copies of licenses to carry firearms  
9     issued pursuant to Section 12050, information reported to the  
10    Department of Justice pursuant to Section 12053, dealers'  
11    records of sales of firearms, reports provided pursuant to Section  
12    12072 or 12078, forms provided pursuant to Section 12084 as

1 that section read prior to being repealed by the act that amended  
2 this section, reports provided pursuant to Section 12071 that are  
3 not dealers' records of sales of firearms, and reports of stolen,  
4 lost, found, pledged, or pawned property in any city or county of  
5 this state, and shall, upon proper application therefor, furnish this  
6 information to the officers referred to in Section 11105.

7 (b) (1) Notwithstanding subdivision (a), the Attorney General  
8 shall not retain or compile any information from reports filed  
9 pursuant to subdivision (a) of Section 12078 for firearms that are  
10 not handguns, from forms submitted pursuant to Section 12084,  
11 as that section read prior to being repealed by the act that  
12 amended this section, for firearms that are not handguns, or from  
13 dealers' records of sales for firearms that are not handguns. All  
14 copies of the forms submitted, or any information received in  
15 electronic form, pursuant to Section 12084, as that section read  
16 prior to being repealed by the act that amended this section, for  
17 firearms that are not handguns, or of the dealers' records of sales  
18 for firearms that are not handguns shall be destroyed within five  
19 days of the clearance by the Attorney General, unless the  
20 purchaser or transferor is ineligible to take possession of the  
21 firearm. All copies of the reports filed, or any information  
22 received in electronic form, pursuant to subdivision (a) of  
23 Section 12078 for firearms that are not handguns shall be  
24 destroyed within five days of the receipt by the Attorney General,  
25 unless retention is necessary for use in a criminal prosecution.

26 (2) A peace officer, the Attorney General, a Department of  
27 Justice employee designated by the Attorney General, or any  
28 authorized local law enforcement employee shall not retain or  
29 compile any information from a firearms transaction record, as  
30 defined in Section 12071, for firearms that are not handguns  
31 unless retention or compilation is necessary for use in a criminal  
32 prosecution or in a proceeding to revoke a license issued  
33 pursuant to Section 12071.

34 (3) A violation of this subdivision is a misdemeanor.

35 (c) (1) The Attorney General shall permanently keep and  
36 properly file and maintain all information reported to the  
37 Department of Justice pursuant to Sections 12071, 12072, 12078,  
38 12082, and former Section 12084 or any other law, as to  
39 handguns and maintain a registry thereof.

40 (2) The registry shall consist of all of the following:

1 (A) The name, address, identification of, place of birth (state  
2 or country), complete telephone number, occupation, sex,  
3 description, and all legal names and aliases ever used by the  
4 owner or person being loaned the particular handgun as listed on  
5 the information provided to the department on the Dealers'  
6 Record of Sale, the Law Enforcement Firearms Transfer (LEFT),  
7 as defined in former Section 12084, or reports made to the  
8 department pursuant to Section 12078 or any other law.

9 (B) The name and address of, and other information about, any  
10 person (whether a dealer or a private party) from whom the  
11 owner acquired or the person being loaned the particular handgun  
12 and when the firearm was acquired or loaned as listed on the  
13 information provided to the department on the Dealers' Record  
14 of Sale, the LEFT, or reports made to the department pursuant to  
15 Section 12078 or any other law.

16 (C) Any waiting period exemption applicable to the  
17 transaction which resulted in the owner of or the person being  
18 loaned the particular handgun acquiring or being loaned that  
19 firearm.

20 (D) The manufacturer's name if stamped on the firearm,  
21 model name or number if stamped on the firearm, and, if  
22 applicable, the serial number, other number (if more than one  
23 serial number is stamped on the firearm), caliber, type of firearm,  
24 if the firearm is new or used, barrel length, and color of the  
25 firearm.

26 (3) Information in the registry referred to in this subdivision  
27 shall, upon proper application therefor, be furnished to the  
28 officers referred to in Section 11105, to a city attorney  
29 prosecuting a civil action, solely for use in prosecuting that civil  
30 action and not for any other purpose, or to the person listed in the  
31 registry as the owner or person who is listed as being loaned the  
32 particular handgun.

33 (4) If any person is listed in the registry as the owner of a  
34 firearm through a Dealers' Record of Sale prior to 1979, and the  
35 person listed in the registry requests by letter that the Attorney  
36 General store and keep the record electronically, as well as in the  
37 record's existing photographic, photostatic, or nonerasable  
38 optically stored form, the Attorney General shall do so within  
39 three working days of receipt of the request. The Attorney  
40 General shall, in writing, and as soon as practicable, notify the

1 person requesting electronic storage of the record that the request  
2 has been honored as required by this paragraph.

3 SEC. 1.5. Section 11106 of the Penal Code is amended to  
4 read:

5 11106. (a) In order to assist in the investigation of crime, the  
6 prosecution of civil actions by city attorneys pursuant to  
7 paragraph (3) of subdivision (c), the arrest and prosecution of  
8 criminals, and the recovery of lost, stolen, or found property, the  
9 Attorney General shall keep and properly file a complete record  
10 of all copies of fingerprints, copies of licenses to carry firearms  
11 issued pursuant to Section 12050, information reported to the  
12 Department of Justice pursuant to Section 12053, dealers'  
13 records of sales of firearms, reports provided pursuant to Section  
14 12072 or 12078, forms provided pursuant to Section 12084,, as  
15 that section read prior to being repealed by the act that amended  
16 this section, reports provided pursuant to Section 12071 that are  
17 not dealers' records of sales of firearms, and reports of stolen,  
18 lost, found, pledged, or pawned property in any city or county of  
19 this state, and shall, upon proper application therefor, furnish this  
20 information to the officers referred to in Section 11105.

21 (b) (1) Except as provided in subdivision (d), the Attorney  
22 General shall not retain or compile any information from reports  
23 filed pursuant to subdivision (a) of Section 12078 for firearms  
24 that are not handguns, from forms submitted pursuant to Section  
25 12084, as that section read prior to being repealed by the act that  
26 amended this section, for firearms that are not handguns, or from  
27 dealers' records of sales for firearms that are not handguns. All  
28 copies of the forms submitted, or any information received in  
29 electronic form, pursuant to Section 12084, as that section read  
30 prior to being repealed by the act that amended this section, for  
31 firearms that are not handguns, or of the dealers' records of sales  
32 for firearms that are not handguns shall be destroyed within five  
33 days of the clearance by the Attorney General, unless the  
34 purchaser or transferor is ineligible to take possession of the  
35 firearm. All copies of the reports filed, or any information  
36 received in electronic form, pursuant to subdivision (a) of  
37 Section 12078 for firearms that are not handguns shall be  
38 destroyed within five days of the receipt by the Attorney General,  
39 unless retention is necessary for use in a criminal prosecution.

(2) A peace officer, the Attorney General, a Department of Justice employee designated by the Attorney General, or any authorized local law enforcement employee shall not retain or compile any information from a firearms transaction record, as defined in paragraph (5) of subdivision (c) of Section 12071, for firearms that are not handguns unless retention or compilation is necessary for use in a criminal prosecution or in a proceeding to revoke a license issued pursuant to Section 12071.

(3) A violation of this subdivision is a misdemeanor.

(c) (1) The Attorney General shall permanently keep and properly file and maintain all information reported to the Department of Justice pursuant to Sections 12071, 12072, 12078, 12082, and former Section 12084 or any other law, as to handguns and maintain a registry thereof.

(2) The registry shall consist of all of the following:

(A) The name, address, identification of, place of birth (state or country), complete telephone number, occupation, sex, description, and all legal names and aliases ever used by the owner or person being loaned the particular handgun as listed on the information provided to the department on the Dealers' Record of Sale, the Law Enforcement Firearms Transfer (LEFT), as defined in former Section 12084, or reports made to the department pursuant to Section 12078 or any other law.

(B) The name and address of, and other information about, any person (whether a dealer or a private party) from whom the owner acquired or the person being loaned the particular handgun and when the firearm was acquired or loaned as listed on the information provided to the department on the Dealers' Record of Sale, the LEFT, or reports made to the department pursuant to Section 12078 or any other law.

(C) Any waiting period exemption applicable to the transaction which resulted in the owner of or the person being loaned the particular handgun acquiring or being loaned that firearm.

(D) The manufacturer's name if stamped on the firearm, model name or number if stamped on the firearm, and, if applicable, the serial number, other number (if more than one serial number is stamped on the firearm), caliber, type of firearm, if the firearm is new or used, barrel length, and color of the firearm.

1 (3) Information in the registry referred to in this subdivision  
2 shall, upon proper application therefor, be furnished to the  
3 officers referred to in Section 11105, to a city attorney  
4 prosecuting a civil action, solely for use in prosecuting that civil  
5 action and not for any other purpose, or to the person listed in the  
6 registry as the owner or person who is listed as being loaned the  
7 particular handgun.

8 (4) If any person is listed in the registry as the owner of a  
9 firearm through a Dealers' Record of Sale prior to 1979, and the  
10 person listed in the registry requests by letter that the Attorney  
11 General store and keep the record electronically, as well as in the  
12 record's existing photographic, photostatic, or nonerasable  
13 optically stored form, the Attorney General shall do so within  
14 three working days of receipt of the request. The Attorney  
15 General shall, in writing, and as soon as practicable, notify the  
16 person requesting electronic storage of the record that the request  
17 has been honored as required by this paragraph.

18 (d) (1) Any officer referred to in paragraphs (1) to (6),  
19 inclusive, of subdivision (b) of Section 11105 may disseminate  
20 the name of the subject of the record, the number of the firearms  
21 listed in the record, and the description of any firearm, including  
22 the make, model, and caliber, from the record relating to any  
23 firearm's sale, transfer, registration, or license record, or any  
24 information reported to the Department of Justice pursuant to  
25 Section 12021.3, 12053, 12071, 12072, 12077, 12078, 12082, or  
26 12285, if the following conditions are met:

27 (A) The subject of the record has been arraigned for a crime in  
28 which the victim is a person described in subdivisions (a) to (f),  
29 inclusive, of Section 6211 of the Family Code and is being  
30 prosecuted or is serving a sentence for the crime, or the subject of  
31 the record is the subject of an emergency protective order, a  
32 temporary restraining order, or an order after hearing, which is in  
33 effect and has been issued by a family court under the Domestic  
34 Violence Protection Act set forth in Division 10 (commencing  
35 with Section 6200) of the Family Code.

36 (B) The information is disseminated only to the victim of the  
37 crime or to the person who has obtained the emergency  
38 protective order, the temporary restraining order, or the order  
39 after hearing issued by the family court.

1 (C) Whenever a law enforcement officer disseminates the  
2 information authorized by this subdivision, that officer or another  
3 officer assigned to the case shall immediately provide the victim  
4 of the crime with a “Victims of Domestic Violence” card, as  
5 specified in subparagraph (G) of paragraph (9) of subdivision (c)  
6 of Section 13701.

7 (2) The victim or person to whom such information is  
8 disseminated may disclose it as he or she deems necessary to  
9 protect himself or herself or another person from bodily harm by  
10 the person who is the subject of the record.

11 SEC. 2. Section 11108 of the Penal Code is amended to read:

12 11108. Each sheriff or police chief executive shall submit  
13 descriptions of serialized property which has been reported  
14 stolen, lost, found, recovered, held for safekeeping, or under  
15 observation, directly into the appropriate Department of Justice  
16 automated property system for firearms, stolen bicycles, stolen  
17 vehicles, or other property, as the case may be.

18 Reports of stolen nonserialized property which has unique  
19 characteristics or inscriptions permitting accurate identification  
20 shall be sent by each sheriff or police chief executive directly to  
21 the Special Services Section of the department by letter or  
22 teletype.

23 SEC. 2.5. Section 11108 of the Penal Code is amended to  
24 read:

25 11108. (a) Each sheriff or police chief executive shall submit  
26 descriptions of serialized property, or nonserialized property that  
27 has been uniquely inscribed, which has been reported stolen, lost,  
28 found, recovered, held for safekeeping, or under observation,  
29 directly into the appropriate Department of Justice automated  
30 property system for firearms, stolen bicycles, stolen vehicles, or  
31 other property, as the case may be.

32 (b) Information about a firearm entered into the automated  
33 system for firearms shall remain in the system until the reported  
34 firearm has been found, recovered, is no longer under  
35 observation, or the record is determined to have been entered in  
36 error.

37 (c) Any costs incurred by the Department of Justice to  
38 implement subdivision (b) shall be reimbursed from funds other  
39 than fees charged and collected pursuant to subdivisions (e) and  
40 (f) of Section 12076.



1 SEC. 3. Section 11108.3 of the Penal Code is amended to  
2 read:

3 11108.3. (a) In addition to the requirements of Section 11108  
4 that apply to a local law enforcement agency's duty to report to  
5 the Department of Justice the recovery of a firearm, a police or  
6 sheriff's department shall, and any other law enforcement agency  
7 or agent may, report to the department in a manner determined  
8 by the Attorney General in consultation with the Bureau of  
9 Alcohol, Tobacco, Firearms and Explosives all available  
10 information necessary to identify and trace the history of all  
11 recovered firearms that are illegally possessed, have been used in  
12 a crime, or are suspected of having been used in a crime.

13 (b) When the department receives information from a local  
14 law enforcement agency pursuant to subdivision (a), it shall  
15 promptly forward this information to the National Tracing Center  
16 of the federal Bureau of Alcohol, Tobacco, Firearms and  
17 Explosives to the extent practicable.

18 (c) The Department of Justice shall implement an electronic  
19 system by January 1, 2002, to receive comprehensive tracing  
20 information from each local law enforcement agency, and to  
21 forward this information to the National Tracing Center.

22 (d) In implementing this section, the Attorney General shall  
23 ensure to the maximum extent practical that both of the following  
24 apply:

25 (1) The information he or she provides to the federal Bureau  
26 of Alcohol, Tobacco, Firearms and Explosives enables that  
27 agency to trace the ownership of the firearm described in  
28 subdivision (a).

29 (2) Local law enforcement agencies can report all relevant  
30 information without being unduly burdened by this reporting  
31 function.

32 (e) Information collected pursuant to this section shall be  
33 maintained by the department for a period of not less than 10  
34 years, and shall be available, under guidelines set forth by the  
35 Attorney General, for academic and policy research purposes.

36 (f) The Attorney General shall have the authority to issue  
37 regulations to further the purposes of this section.

38 SEC. 4. Section 12001 of the Penal Code is amended to read:

39 12001. (a) (1) As used in this title, the terms "pistol,"  
40 "revolver," and "firearm capable of being concealed upon the

1 person” shall apply to and include any device designed to be used  
2 as a weapon, from which is expelled a projectile by the force of  
3 any explosion, or other form of combustion, and that has a barrel  
4 less than 16 inches in length. These terms also include any device  
5 that has a barrel 16 inches or more in length which is designed to  
6 be interchanged with a barrel less than 16 inches in length.

7 (2) As used in this title, the term “handgun” means any  
8 “pistol,” “revolver,” or “firearm capable of being concealed upon  
9 the person.”

10 (b) As used in this title, “firearm” means any device, designed  
11 to be used as a weapon, from which is expelled through a barrel a  
12 projectile by the force of any explosion or other form of  
13 combustion.

14 (c) As used in Sections 12021, 12021.1, 12070, 12071, 12072,  
15 12073, 12078, 12101, and 12801 of this code, and Sections 8100,  
16 8101, and 8103 of the Welfare and Institutions Code, the term  
17 “firearm” includes the frame or receiver of the weapon.

18 (d) For the purposes of Sections 12025 and 12031, the term  
19 “firearm” also shall include any rocket, rocket propelled  
20 projectile launcher, or similar device containing any explosive or  
21 incendiary material whether or not the device is designed for  
22 emergency or distress signaling purposes.

23 (e) For purposes of Sections 12070, 12071, and paragraph (8)  
24 of subdivision (a), and subdivisions (b), (c), (d), and (f) of  
25 Section 12072, the term “firearm” does not include an unloaded  
26 firearm that is defined as an “antique firearm” in Section  
27 921(a)(16) of Title 18 of the United States Code.

28 (f) Nothing shall prevent a device defined as a “handgun,”  
29 “pistol,” “revolver,” or “firearm capable of being concealed upon  
30 the person” from also being found to be a short-barreled shotgun  
31 or a short-barreled rifle, as defined in Section 12020.

32 (g) For purposes of Sections 12551 and 12552, the term “BB  
33 device” means any instrument that expels a projectile, such as a  
34 BB or a pellet, not exceeding 6mm caliber, through the force of  
35 air pressure, gas pressure, or spring action, or any spot marker  
36 gun.

37 (h) As used in this title, “wholesaler” means any person who is  
38 licensed as a dealer pursuant to Chapter 44 (commencing with  
39 Section 921) of Title 18 of the United States Code and the  
40 regulations issued pursuant thereto who sells, transfers, or

1 assigns firearms, or parts of firearms, to persons who are licensed  
2 as manufacturers, importers, or gunsmiths pursuant to Chapter 44  
3 (commencing with Section 921) of Title 18 of the United States  
4 Code, or persons licensed pursuant to Section 12071, and  
5 includes persons who receive finished parts of firearms and  
6 assemble them into completed or partially completed firearms in  
7 furtherance of that purpose.

8 “Wholesaler” shall not include a manufacturer, importer, or  
9 gunsmith who is licensed to engage in those activities pursuant to  
10 Chapter 44 (commencing with Section 921) of Title 18 of the  
11 United States Code or a person licensed pursuant to Section  
12 12071 and the regulations issued pursuant thereto. A wholesaler  
13 also does not include those persons dealing exclusively in grips,  
14 stocks, and other parts of firearms that are not frames or receivers  
15 thereof.

16 (i) As used in Section 12071 or 12072, “application to  
17 purchase” means any of the following:

18 (1) The initial completion of the register by the purchaser,  
19 transferee, or person being loaned the firearm as required by  
20 subdivision (b) of Section 12076.

21 (2) The initial completion and transmission to the department  
22 of the record of electronic or telephonic transfer by the dealer on  
23 the purchaser, transferee, or person being loaned the firearm as  
24 required by subdivision (c) of Section 12076.

25 (j) For purposes of Section 12023, a firearm shall be deemed  
26 to be “loaded” whenever both the firearm and the unexpended  
27 ammunition capable of being discharged from the firearm are in  
28 the immediate possession of the same person.

29 (k) For purposes of Sections 12021, 12021.1, 12025, 12070,  
30 12072, 12073, 12078, 12101, and 12801 of this code, and  
31 Sections 8100, 8101, and 8103 of the Welfare and Institutions  
32 Code, notwithstanding the fact that the term “any firearm” may  
33 be used in those sections, each firearm or the frame or receiver of  
34 the same shall constitute a distinct and separate offense under  
35 those sections.

36 (l) For purposes of Section 12020, a violation of that section as  
37 to each firearm, weapon, or device enumerated therein shall  
38 constitute a distinct and separate offense.

39 (m) Each application that requires any firearms eligibility  
40 determination involving the issuance of any license, permit, or

1 certificate pursuant to this title shall include two copies of the  
2 applicant's fingerprints on forms prescribed by the Department  
3 of Justice. One copy of the fingerprints may be submitted to the  
4 United States Federal Bureau of Investigation.

5 (n) As used in this chapter, a "personal handgun importer"  
6 means an individual who meets all of the following criteria:

7 (1) He or she is not a person licensed pursuant to Section  
8 12071.

9 (2) He or she is not a licensed manufacturer of firearms  
10 pursuant to Chapter 44 (commencing with Section 921) of Title  
11 18 of the United States Code.

12 (3) He or she is not a licensed importer of firearms pursuant to  
13 Chapter 44 (commencing with Section 921) of Title 18 of the  
14 United States Code and the regulations issued pursuant thereto.

15 (4) He or she is the owner of a pistol, revolver, or other  
16 firearm capable of being concealed upon the person.

17 (5) He or she acquired that pistol, revolver, or other firearm  
18 capable of being concealed upon the person outside of California.

19 (6) He or she moves into this state on or after January 1, 1998,  
20 as a resident of this state.

21 (7) He or she intends to possess that pistol, revolver, or other  
22 firearm capable of being concealed upon the person within this  
23 state on or after January 1, 1998.

24 (8) The pistol, revolver, or other firearm capable of being  
25 concealed upon the person was not delivered to him or her by a  
26 person licensed pursuant to Section 12071 who delivered that  
27 firearm following the procedures set forth in Section 12071.2 and  
28 subdivision (c) of Section 12072.

29 (9) He or she, while a resident of this state, had not previously  
30 reported his or her ownership of that pistol, revolver, or other  
31 firearm capable of being concealed upon the person to the  
32 Department of Justice in a manner prescribed by the department  
33 that included information concerning him or her and a  
34 description of the firearm.

35 (10) The pistol, revolver, or other firearm capable of being  
36 concealed upon the person is not a firearm that is prohibited by  
37 subdivision (a) of Section 12020.

38 (11) The pistol, revolver, or other firearm capable of being  
39 concealed upon the person is not an assault weapon, as defined in  
40 Section 12276 or 12276.1.

1 (12) The pistol, revolver, or other firearm capable of being  
2 concealed upon the person is not a machinegun, as defined in  
3 Section 12200.

4 (13) The person is 18 years of age or older.

5 (o) For purposes of paragraph (6) of subdivision (n):

6 (1) Except as provided in paragraph (2), residency shall be  
7 determined in the same manner as is the case for establishing  
8 residency pursuant to Section 12505 of the Vehicle Code.

9 (2) In the case of members of the Armed Forces of the United  
10 States, residency shall be deemed to be established when he or  
11 she was discharged from active service in this state.

12 (p) As used in this code, “basic firearms safety certificate”  
13 means a certificate issued by the Department of Justice pursuant  
14 to Article 8 (commencing with Section 12800) of Chapter 6 of  
15 Title 2 of Part 4, prior to January 1, 2003.

16 (q) As used in this code, “handgun safety certificate” means a  
17 certificate issued by the Department of Justice pursuant to Article  
18 8 (commencing with Section 12800) of Chapter 6 of Title 2 of  
19 Part 4, as that article is operative on or after January 1, 2003.

20 (r) As used in this title, “gunsmith” means any person who is  
21 licensed as a dealer pursuant to Chapter 44 (commencing with  
22 Section 921) of Title 18 of the United States Code and the  
23 regulations issued pursuant thereto, who is engaged primarily in  
24 the business of repairing firearms, or making or fitting special  
25 barrels, stocks, or trigger mechanisms to firearms, or the agent or  
26 employee of that person.

27 SEC. 4.5. Section 12001 of the Penal Code is amended to  
28 read:

29 12001. (a) (1) As used in this title, the terms “pistol,”  
30 “revolver,” and “firearm capable of being concealed upon the  
31 person” shall apply to and include any device designed to be used  
32 as a weapon, from which is expelled a projectile by the force of  
33 any explosion, or other form of combustion, and that has a barrel  
34 less than 16 inches in length. These terms also include any device  
35 that has a barrel 16 inches or more in length which is designed to  
36 be interchanged with a barrel less than 16 inches in length.

37 (2) As used in this title, the term “handgun” means any  
38 “pistol,” “revolver,” or “firearm capable of being concealed upon  
39 the person.”

1 (b) As used in this title, “firearm” means any device, designed  
2 to be used as a weapon, from which is expelled through a barrel a  
3 projectile by the force of any explosion or other form of  
4 combustion.

5 (c) As used in Sections 12021, 12021.1, 12043, 12070, 12071,  
6 12072, 12073, 12078, 12101, and 12801 of this code, and  
7 Sections 8100, 8101, and 8103 of the Welfare and Institutions  
8 Code, the term “firearm” includes the frame or receiver of the  
9 weapon.

10 (d) For the purposes of Sections 12025 and 12031, the term  
11 “firearm” also shall include any rocket, rocket propelled  
12 projectile launcher, or similar device containing any explosive or  
13 incendiary material whether or not the device is designed for  
14 emergency or distress signaling purposes.

15 (e) For purposes of Sections 12043, 12070, 12071, and  
16 paragraph (8) of subdivision (a), and subdivisions (b), (c), (d),  
17 and (f) of Section 12072, the term “firearm” does not include an  
18 unloaded firearm that is defined as an “antique firearm” in  
19 Section 921(a)(16) of Title 18 of the United States Code.

20 (f) Nothing shall prevent a device defined as a “handgun,”  
21 “pistol,” “revolver,” or “firearm capable of being concealed upon  
22 the person” from also being found to be a short-barreled shotgun  
23 or a short-barreled rifle, as defined in Section 12020.

24 (g) For purposes of Sections 12551 and 12552, the term “BB  
25 device” means any instrument that expels a projectile, such as a  
26 BB or a pellet, not exceeding 6mm caliber, through the force of  
27 air pressure, gas pressure, or spring action, or any spot marker  
28 gun.

29 (h) As used in this title, “wholesaler” means any person who is  
30 licensed as a dealer pursuant to Chapter 44 (commencing with  
31 Section 921) of Title 18 of the United States Code and the  
32 regulations issued pursuant thereto who sells, transfers, or  
33 assigns firearms, or parts of firearms, to persons who are licensed  
34 as manufacturers, importers, or gunsmiths pursuant to Chapter 44  
35 (commencing with Section 921) of Title 18 of the United States  
36 Code, or persons licensed pursuant to Section 12071, and  
37 includes persons who receive finished parts of firearms and  
38 assemble them into completed or partially completed firearms in  
39 furtherance of that purpose.

1 “Wholesaler” shall not include a manufacturer, importer, or  
2 gunsmith who is licensed to engage in those activities pursuant to  
3 Chapter 44 (commencing with Section 921) of Title 18 of the  
4 United States Code or a person licensed pursuant to Section  
5 12071 and the regulations issued pursuant thereto. A wholesaler  
6 also does not include those persons dealing exclusively in grips,  
7 stocks, and other parts of firearms that are not frames or receivers  
8 thereof.

9 (i) As used in Section 12071 or 12072, “application to  
10 purchase” means any of the following:

11 (1) The initial completion of the register by the purchaser,  
12 transferee, or person being loaned the firearm as required by  
13 subdivision (b) of Section 12076.

14 (2) The initial completion  
15 and transmission to the department of the record of electronic  
16 or telephonic transfer by the dealer on the purchaser, transferee,  
17 or person being loaned the firearm as required by subdivision (c)  
18 of Section 12076.

19 (j) For purposes of Section 12023, a firearm shall be deemed  
20 to be “loaded” whenever both the firearm and the unexpended  
21 ammunition capable of being discharged from the firearm are in  
22 the immediate possession of the same person.

23 (k) For purposes of Sections 12021, 12021.1, 12025, 12043,  
24 12070, 12072, 12073, 12078, 12101, and 12801 of this code, and  
25 Sections 8100, 8101, and 8103 of the Welfare and Institutions  
26 Code, notwithstanding the fact that the term “any firearm” may  
27 be used in those sections, each firearm or the frame or receiver of  
28 the same shall constitute a distinct and separate offense under  
29 those sections.

30 (l) For purposes of Section 12020, a violation of that section as  
31 to each firearm, weapon, or device enumerated therein shall  
32 constitute a distinct and separate offense.

33 (m) Each application that requires any firearms eligibility  
34 determination involving the issuance of any license, permit, or  
35 certificate pursuant to this title shall include two copies of the  
36 applicant’s fingerprints on forms prescribed by the Department  
37 of Justice. One copy of the fingerprints may be submitted to the  
38 United States Federal Bureau of Investigation.

39 (n) As used in this chapter, a “personal handgun importer”  
40 means an individual who meets all of the following criteria:

- 1 (1) He or she is not a person licensed pursuant to Section  
2 12071.
- 3 (2) He or she is not a licensed manufacturer of firearms  
4 pursuant to Chapter 44 (commencing with Section 921) of Title  
5 18 of the United States Code.
- 6 (3) He or she is not a licensed importer of firearms pursuant to  
7 Chapter 44 (commencing with Section 921) of Title 18 of the  
8 United States Code and the regulations issued pursuant thereto.
- 9 (4) He or she is the owner of a handgun.
- 10 (5) He or she acquired that handgun outside of California.
- 11 (6) He or she moves into this state on or after January 1, 1998,  
12 as a resident of this state.
- 13 (7) He or she intends to possess that handgun within this state  
14 on or after January 1, 1998.
- 15 (8) The handgun was not delivered to him or her by a person  
16 licensed pursuant to Section 12071 who delivered that firearm  
17 following the procedures set forth in Section 12071 and  
18 subdivision (c) of Section 12072.
- 19 (9) He or she, while a resident of this state, had not previously  
20 reported his or her ownership of that handgun to the Department  
21 of Justice in a manner prescribed by the department that included  
22 information concerning him or her and a description of the  
23 firearm.
- 24 (10) The handgun is not a firearm that is prohibited by  
25 subdivision (a) of Section 12020.
- 26 (11) The handgun is not an assault weapon, as defined in  
27 Section 12276 or 12276.1.
- 28 (12) The handgun is not a machinegun, as defined in Section  
29 12200.
- 30 (13) The person is 18 years of age or older.
- 31 (o) For purposes of paragraph (6) of subdivision (n):
- 32 (1) Except as provided in paragraph (2), residency shall be  
33 determined in the same manner as is the case for establishing  
34 residency pursuant to Section 12505 of the Vehicle Code.
- 35 (2) In the case of members of the Armed Forces of the United  
36 States, residency shall be deemed to be established when he or  
37 she was discharged from active service in this state.
- 38 (p) As used in this code, “basic firearms safety certificate”  
39 means a certificate issued by the Department of Justice pursuant



1 to Article 8 (commencing with Section 12800) of Chapter 6 of  
2 Title 2 of Part 4, prior to January 1, 2003.

3 (q) As used in this code, “handgun safety certificate” means a  
4 certificate issued by the Department of Justice pursuant to Article  
5 8 (commencing with Section 12800) of Chapter 6 of Title 2 of  
6 Part 4, as that article is operative on or after January 1, 2003.

7 (r) As used in this title, “gunsmith” means any person who is  
8 licensed as a dealer pursuant to Chapter 44 (commencing with  
9 Section 921) of Title 18 of the United States Code and the  
10 regulations issued pursuant thereto, who is engaged primarily in  
11 the business of repairing firearms, or making or fitting special  
12 barrels, stocks, or trigger mechanisms to firearms, or the agent or  
13 employee of that person.

14 SEC. 5. Section 12021.3 of the Penal Code is amended to  
15 read:

16 12021.3. (a) (1) Any person who claims title to any firearm  
17 that is in the custody or control of a court or law enforcement  
18 agency and who wishes to have the firearm returned to him or  
19 her shall make application for a determination by the Department  
20 of Justice as to whether he or she is eligible to possess a firearm.  
21 The application shall include the following:

22 (A) The applicant’s name, date and place of birth, gender,  
23 telephone number, and complete address.

24 (B) Whether the applicant is a United States citizen. If the  
25 applicant is not a United States citizen, he or she shall also  
26 provide his or her country of citizenship and his or her alien  
27 registration or I-94 number.

28 (C) If the firearm is a handgun, the firearm’s make, model,  
29 caliber, barrel length, handgun type, country of origin, and serial  
30 number.

31 (D) For residents of California, the applicant’s valid California  
32 driver’s license number or valid California identification card  
33 number issued by the Department of Motor Vehicles. For  
34 nonresidents of California, a copy of the applicant’s military  
35 identification with orders indicating that the individual is  
36 stationed in California, or a copy of the applicant’s valid driver’s  
37 license from the state of residence, or a copy of the applicant’s  
38 state identification card from the state of residence. Copies of the  
39 documents provided by non-California residents shall be  
40 notarized.

1 (E) The name of the court or law enforcement agency holding  
2 the firearm.

3 (F) The signature of the applicant and the date of signature.

4 (G) Any person furnishing a fictitious name or address or  
5 knowingly furnishing any incorrect information or knowingly  
6 omitting any information required to be provided for the  
7 application, including any notarized information pursuant to  
8 subparagraph (D) of paragraph (1) of subdivision (a) shall be  
9 guilty of a misdemeanor.

10 (2) A person who owns a firearm that is in the custody of a  
11 court or law enforcement agency and who does not wish to  
12 obtain possession of the firearm, and the firearm is an otherwise  
13 legal firearm, and the person otherwise has right to title of the  
14 firearm, shall be entitled to sell or transfer title of the firearm to a  
15 licensed dealer as defined in Section 12071.

16 (3) Any person furnishing a fictitious name or address, or  
17 knowingly furnishing any incorrect information or knowingly  
18 omitting any information required to be provided for the  
19 application, including any notarized information pursuant to  
20 subparagraph (D) of paragraph (1) of subdivision (a) is  
21 punishable as a misdemeanor.

22 (b) No law enforcement agency or court that has taken custody  
23 of any firearm may return the firearm to any individual unless the  
24 following requirements are satisfied:

25 (1) That individual presents to the agency or court notification  
26 of a determination by the department pursuant to subdivision (e)  
27 that the person is eligible to possess firearms.

28 (2) If the agency or court has direct access to the Automated  
29 Firearms System, the agency or court has verified that the firearm  
30 is not listed as stolen pursuant to Section 11108, and that the  
31 firearm has been recorded in the Automated Firearms System in  
32 the name of the individual who seeks its return.

33 (3) If the firearm has been reported lost or stolen pursuant to  
34 Section 11108, a law enforcement agency shall notify the owner  
35 or person entitled to possession pursuant to Section 11108.5.  
36 However, that person shall provide proof of eligibility to possess  
37 a firearm pursuant to subdivision (e). Nothing in this subdivision  
38 shall prevent the local law enforcement agency from charging the  
39 rightful owner or person entitled to possession of the firearm the  
40 fees described in subdivision (j). However, individuals who are

1 applying for a background check to retrieve a firearm that comes  
2 into the custody or control of the court or law enforcement  
3 agency pursuant to subdivision (a) shall be exempt from the fees  
4 in subdivision (c) provided that the court or agency determines  
5 the firearm was reported stolen to a law enforcement agency  
6 prior to the date the firearm came into custody or control of the  
7 court or law enforcement agency or within five business days of  
8 the firearm being stolen from its owner. The court or agency  
9 shall notify the Department of Justice of this fee exemption in a  
10 manner prescribed by the department.

11 (c) The Department of Justice shall establish a fee of twenty  
12 dollars (\$20) per request for return of a firearm, plus a  
13 three-dollar (\$3) charge for each additional handgun being  
14 processed as part of the request to return a firearm, to cover its  
15 costs for processing firearm clearance determinations submitted  
16 pursuant to this section. The fees shall be deposited into the  
17 Dealers' Record of Sale Special Account. The department may  
18 increase the fee by using the California Consumer Price Index as  
19 compiled and reported by the California Department of Industrial  
20 Relations to determine an annual rate of increase. Any fee  
21 increase shall be rounded to the nearest dollar.

22 (d) When the Department of Justice receives a completed  
23 application pursuant to subdivision (a) accompanied with the fee  
24 required pursuant to subdivision (c), it shall conduct an eligibility  
25 check of the applicant to determine whether the applicant is  
26 eligible to possess firearms.

27 (e) (1) If the department determines that the applicant is  
28 eligible to possess the firearm, the department shall provide the  
29 applicant with written notification that includes the following:

30 (A) The identity of the applicant.

31 (B) A statement that the applicant is eligible to possess a  
32 firearm.

33 (C) If the firearm is a handgun, a description of the handgun  
34 by make, model, and serial number.

35 (2) If the firearm is a handgun, the department shall enter a  
36 record of the handgun into the Automated Firearms System.

37 (3) The department shall have 30 days from the date of receipt  
38 to complete the background check unless delayed by  
39 circumstances beyond the control of the department. The

1 applicant may contact the department to inquire about the reason  
2 for the delay.

3 (f) If the department denies the application, and the firearm is  
4 an otherwise legal firearm, the department shall notify the  
5 applicant of the denial and provide a form for the applicant to use  
6 to sell or transfer the firearm to a licensed dealer as defined in  
7 Section 12071. The applicant may contact the department to  
8 inquire about the reason for the denial.

9 (g) Notwithstanding any other provision of law, no law  
10 enforcement agency or court shall be required to retain a firearm  
11 for more than 180 days after the owner of the firearm has been  
12 notified by the court or law enforcement agency that the firearm  
13 has been made available for return. An unclaimed firearm may be  
14 disposed of after the 180-day period has expired.

15 (h) Notwithstanding Section 11106, the department may retain  
16 personal information about an applicant in connection with a  
17 claim for a firearm that is not a handgun to allow for law  
18 enforcement confirmation of compliance with this section. The  
19 information retained may include personal identifying  
20 information regarding the individual applying for the clearance,  
21 but may not include information that identifies any particular  
22 firearm that is not a handgun.

23 (i) (1) If a law enforcement agency determines that the  
24 applicant is the legal owner of any firearm deposited with the law  
25 enforcement agency and is prohibited from possessing any  
26 firearm and the firearm is an otherwise legal firearm, the  
27 applicant shall be entitled to sell or transfer the firearm to a  
28 licensed dealer as defined in Section 12071.

29 (2) If the firearm has been lost or stolen, the firearm shall be  
30 restored to the lawful owner pursuant to Section 11108.5 upon  
31 his or her identification of the firearm and proof of ownership,  
32 and proof of eligibility to possess a firearm pursuant to  
33 subdivision (e). Nothing in this subdivision shall prevent the  
34 local law enforcement agency from charging the rightful owner  
35 of the firearm the fees described in subdivision (j).

36 (3) Subdivision (a) of Section 12070 shall not apply to  
37 deliveries, transfers, or returns of firearms made by a court or a  
38 law enforcement agency pursuant to this section.

1 (4) Subdivision (d) of Section 12072 shall not apply to  
2 deliveries, transfers, or returns of firearms made pursuant to this  
3 section.

4 (j) (1) A city, county, or city and county, or a state agency  
5 may adopt a regulation, ordinance, or resolution imposing a  
6 charge equal to its administrative costs relating to the seizure,  
7 impounding, storage, or release of firearms. The fees shall not  
8 exceed the actual costs incurred for the expenses directly related  
9 to taking possession of a firearm, storing the firearm, and  
10 surrendering possession of the firearm to a licensed firearms  
11 dealer or to the owner. Those administrative costs may be waived  
12 by the local or state agency upon verifiable proof that the firearm  
13 was reported stolen at the time the firearm came into the custody  
14 or control of the law enforcement agency.

15 (2) The following apply to any charges imposed for  
16 administrative costs pursuant to this subdivision:

17 (A) The charges shall only be imposed on the person claiming  
18 title to the firearms.

19 (B) Any charges shall be collected by the local or state  
20 authority only from the person claiming title to the firearm.

21 (C) The charges shall be in addition to any other charges  
22 authorized or imposed pursuant to this code.

23 (D) No charge may be imposed for any hearing or appeal  
24 relating to the removal, impound, storage, or release of a firearm  
25 unless that hearing or appeal was requested in writing by the  
26 legal owner of the firearm. In addition, the charge may be  
27 imposed only upon the person requesting that hearing or appeal.

28 (3) No costs for any hearing or appeal related to the release of  
29 a firearm shall be charged to the legal owner who redeems the  
30 firearm unless the legal owner voluntarily requests the post  
31 storage hearing or appeal. No city, county, city and county, or  
32 state agency shall require a legal owner to request a poststorage  
33 hearing as a requirement for release of the firearm to the legal  
34 owner.

35 (k) In a proceeding for the return of a firearm seized and not  
36 returned pursuant to this section, where the defendant or  
37 cross-defendant is a law enforcement agency, the court shall  
38 award reasonable attorney's fees to the prevailing party.

39 SEC. 6. Section 12026.2 of the Penal Code is amended to  
40 read:

1 12026.2. (a) Section 12025 does not apply to, or affect, any  
2 of the following:

3 (1) The possession of a firearm by an authorized participant in  
4 a motion picture, television, or video production or entertainment  
5 event when the participant lawfully uses the firearm as part of  
6 that production or event or while going directly to, or coming  
7 directly from, that production or event.

8 (2) The possession of a firearm in a locked container by a  
9 member of any club or organization, organized for the purpose of  
10 lawfully collecting and lawfully displaying pistols, revolvers, or  
11 other firearms, while the member is at meetings of the clubs or  
12 organizations or while going directly to, and coming directly  
13 from, those meetings.

14 (3) The transportation of a firearm by a participant when going  
15 directly to, or coming directly from, a recognized safety or hunter  
16 safety class, or a recognized sporting event involving that  
17 firearm.

18 (4) The transportation of a firearm by a person listed in  
19 Section 12026 directly between any of the places mentioned in  
20 Section 12026.

21 (5) The transportation of a firearm by a person when going  
22 directly to, or coming directly from, a fixed place of business or  
23 private residential property for the purpose of the lawful repair or  
24 the lawful transfer, sale, or loan of that firearm.

25 (6) The transportation of a firearm by a person listed in  
26 Section 12026 when going directly from the place where that  
27 person lawfully received that firearm to that person's place of  
28 residence or place of business or to private property owned or  
29 lawfully possessed by that person.

30 (7) The transportation of a firearm by a person when going  
31 directly to, or coming directly from, a gun show, swap meet, or  
32 similar event to which the public is invited, for the purpose of  
33 displaying that firearm in a lawful manner.

34 (8) The transportation of a firearm by an authorized employee  
35 or agent of a supplier of firearms when going directly to, or  
36 coming directly from, a motion picture, television, or video  
37 production or entertainment event for the purpose of providing  
38 that firearm to an authorized participant to lawfully use as a part  
39 of that production or event.

1 (9) The transportation of a firearm by a person when going  
2 directly to, or coming directly from, a target range, which holds a  
3 regulatory or business license, for the purposes of practicing  
4 shooting at targets with that firearm at that target range.

5 (10) The transportation of a firearm by a person when going  
6 directly to, or coming directly from, a place designated by a  
7 person authorized to issue licenses pursuant to Section 12050  
8 when done at the request of the issuing agency so that the issuing  
9 agency can determine whether or not a license should be issued  
10 to that person to carry that firearm.

11 (11) The transportation of a firearm by a person when going  
12 directly to, or coming directly from, a lawful camping activity for  
13 the purpose of having that firearm available for lawful personal  
14 protection while at the lawful campsite. This paragraph shall not  
15 be construed to override the statutory authority granted to the  
16 Department of Parks and Recreation or any other state or local  
17 governmental agencies to promulgate rules and regulations  
18 governing the administration of parks and campgrounds.

19 (12) The transportation of a firearm by a person in order to  
20 comply with subdivision (c) or (i) of Section 12078 as it pertains  
21 to that firearm.

22 (13) The transportation of a firearm by a person in order to  
23 utilize subdivision (j) of Section 12078 as it pertains to that  
24 firearm.

25 (14) The transportation of a firearm by a person when going  
26 directly to, or coming directly from, a gun show or event, as  
27 defined in Section 478.100 of Title 27 of the Code of Federal  
28 Regulations, for the purpose of lawfully transferring, selling, or  
29 loaning that firearm in accordance with subdivision (d) of  
30 Section 12072.

31 (15) The transportation of a firearm by a person in order to  
32 utilize paragraph (6) of subdivision (a) of Section 12078 as it  
33 pertains to that firearm.

34 (16) The transportation of a firearm by a person who finds the  
35 firearm in order to comply with Article 1 (commencing with  
36 Section 2080) of Chapter 4 of Division 3 of the Civil Code as it  
37 pertains to that firearm and if that firearm is being transported to  
38 a law enforcement agency, the person gives prior notice to the  
39 law enforcement agency that he or she is transporting the firearm  
40 to the law enforcement agency.

1 (17) The transportation of a firearm by a person in order to  
2 comply with paragraph (2) of subdivision (f) of Section 12072 as  
3 it pertains to that firearm.

4 (18) The transportation of a firearm by a person who finds the  
5 firearm and is transporting it to a law enforcement agency for  
6 disposition according to law, if he or she gives prior notice to the  
7 law enforcement agency that he or she is transporting the firearm  
8 to the law enforcement agency for disposition according to law.

9 (19) The transportation of a firearm by a person in order to  
10 comply with paragraph (3) of subdivision (f) of Section 12072 as  
11 it pertains to that firearm.

12 (20) The transportation of a firearm by a person for the  
13 purpose of obtaining an identification number or mark assigned  
14 for that firearm from the Department of Justice pursuant to  
15 Section 12092.

16 (b) In order for a firearm to be exempted under subdivision  
17 (a), while being transported to or from a place, the firearm shall  
18 be unloaded, kept in a locked container, as defined in subdivision  
19 (d), and the course of travel shall include only those deviations  
20 between authorized locations as are reasonably necessary under  
21 the circumstances.

22 (c) This section does not prohibit or limit the otherwise lawful  
23 carrying or transportation of any pistol, revolver, or other firearm  
24 capable of being concealed upon the person in accordance with  
25 this chapter.

26 (d) As used in this section, “locked container” means a secure  
27 container which is fully enclosed and locked by a padlock,  
28 keylock, combination lock, or similar locking device. The term  
29 “locked container” does not include the utility or glove  
30 compartment of a motor vehicle.

31 SEC. 7. Section 12028.5 of the Penal Code is amended to  
32 read:

33 12028.5. (a) As used in this section, the following definitions  
34 shall apply:

35 (1) “Abuse” means any of the following:

36 (A) Intentionally or recklessly to cause or attempt to cause  
37 bodily injury.

38 (B) Sexual assault.

39 (C) To place a person in reasonable apprehension of imminent  
40 serious bodily injury to that person or to another.



1 (D) To molest, attack, strike, stalk, destroy personal property,  
2 or violate the terms of a domestic violence protective order  
3 issued pursuant to Part 4 (commencing with Section 6300) of  
4 Division 10 of the Family Code.

5 (2) “Domestic violence” means abuse perpetrated against any  
6 of the following persons:

7 (A) A spouse or former spouse.

8 (B) A cohabitant or former cohabitant, as defined in Section  
9 6209 of the Family Code.

10 (C) A person with whom the respondent is having or has had a  
11 dating or engagement relationship.

12 (D) A person with whom the respondent has had a child,  
13 where the presumption applies that the male parent is the father  
14 of the child of the female parent under the Uniform Parentage  
15 Act (Part 3 (commencing with Section 7600) of Division 12 of  
16 the Family Code).

17 (E) A child of a party or a child who is the subject of an action  
18 under the Uniform Parentage Act, where the presumption applies  
19 that the male parent is the father of the child to be protected.

20 (F) Any other person related by consanguinity or affinity  
21 within the second degree.

22 (3) “Deadly weapon” means any weapon, the possession or  
23 concealed carrying of which is prohibited by Section 12020.

24 (b) A sheriff, undersheriff, deputy sheriff, marshal, deputy  
25 marshal, or police officer of a city, as defined in subdivision (a)  
26 of Section 830.1, a peace officer of the Department of the  
27 California Highway Patrol, as defined in subdivision (a) of  
28 Section 830.2, a member of the University of California Police  
29 Department, as defined in subdivision (b) of Section 830.2, an  
30 officer listed in Section 830.6 while acting in the course and  
31 scope of his or her employment as a peace officer, a member of a  
32 California State University Police Department, as defined in  
33 subdivision (c) of Section 830.2, a peace officer of the  
34 Department of Parks and Recreation, as defined in subdivision (f)  
35 of Section 830.2, a peace officer, as defined in subdivision (d) of  
36 Section 830.31, a peace officer, as defined in subdivisions (a) and  
37 (b) of Section 830.32, and a peace officer, as defined in Section  
38 830.5, who is at the scene of a domestic violence incident  
39 involving a threat to human life or a physical assault, shall take  
40 temporary custody of any firearm or other deadly weapon in

1 plain sight or discovered pursuant to a consensual or other lawful  
2 search as necessary for the protection of the peace officer or  
3 other persons present. Upon taking custody of a firearm or other  
4 deadly weapon, the officer shall give the owner or person who  
5 possessed the firearm a receipt. The receipt shall describe the  
6 firearm or other deadly weapon and list any identification or  
7 serial number on the firearm. The receipt shall indicate where the  
8 firearm or other deadly weapon can be recovered, the time limit  
9 for recovery as required by this section, and the date after which  
10 the owner or possessor can recover the firearm or other deadly  
11 weapon. No firearm or other deadly weapon shall be held less  
12 than 48 hours. Except as provided in subdivision (f), if a firearm  
13 or other deadly weapon is not retained for use as evidence related  
14 to criminal charges brought as a result of the domestic violence  
15 incident or is not retained because it was illegally possessed, the  
16 firearm or other deadly weapon shall be made available to the  
17 owner or person who was in lawful possession 48 hours after the  
18 seizure or as soon thereafter as possible, but no later than five  
19 business days after the owner or person who was in lawful  
20 possession demonstrates compliance with Section 12021.3. In  
21 any civil action or proceeding for the return of firearms or  
22 ammunition or other deadly weapon seized by any state or local  
23 law enforcement agency and not returned within five business  
24 days following the initial seizure, except as provided in  
25 subdivision (d), the court shall allow reasonable attorney's fees  
26 to the prevailing party.

27 (c) Any peace officer, as defined in subdivisions (a) and (b) of  
28 Section 830.32, who takes custody of a firearm or deadly weapon  
29 pursuant to this section shall deliver the firearm within 24 hours  
30 to the city police department or county sheriff's office in the  
31 jurisdiction where the college or school is located.

32 (d) Any firearm or other deadly weapon that has been taken  
33 into custody that has been stolen shall be restored to the lawful  
34 owner, as soon as its use for evidence has been served, upon his  
35 or her identification of the firearm or other deadly weapon and  
36 proof of ownership, and after the law enforcement agency has  
37 complied with Section 12021.3.

38 (e) Any firearm or other deadly weapon taken into custody and  
39 held by a police, university police, or sheriff's department or by  
40 a marshal's office, by a peace officer of the Department of the

1 California Highway Patrol, as defined in subdivision (a) of  
2 Section 830.2, by a peace officer of the Department of Parks and  
3 Recreation, as defined in subdivision (f) of Section 830.2, by a  
4 peace officer, as defined in subdivision (d) of Section 830.31, or  
5 by a peace officer, as defined in Section 830.5, for longer than 12  
6 months and not recovered by the owner or person who has lawful  
7 possession at the time it was taken into custody, shall be  
8 considered a nuisance and sold or destroyed as provided in  
9 subdivision (c) of Section 12028. Firearms or other deadly  
10 weapons not recovered within 12 months due to an extended  
11 hearing process as provided in subdivision (j), are not subject to  
12 destruction until the court issues a decision, and then only if the  
13 court does not order the return of the firearm or other deadly  
14 weapon to the owner.

15 (f) In those cases in which a law enforcement agency has  
16 reasonable cause to believe that the return of a firearm or other  
17 deadly weapon would be likely to result in endangering the  
18 victim or the person reporting the assault or threat, the agency  
19 shall advise the owner of the firearm or other deadly weapon, and  
20 within 60 days of the date of seizure, initiate a petition in  
21 superior court to determine if the firearm or other deadly weapon  
22 should be returned. The law enforcement agency may make an ex  
23 parte application stating good cause for an order extending the  
24 time to file a petition. Including any extension of time granted in  
25 response to an ex parte request, a petition must be filed within 90  
26 days of the date of seizure of the firearm or other deadly weapon.

27 (g) The law enforcement agency shall inform the owner or  
28 person who had lawful possession of the firearm or other deadly  
29 weapon, at that person's last known address by registered mail,  
30 return receipt requested, that he or she has 30 days from the date  
31 of receipt of the notice to respond to the court clerk to confirm  
32 his or her desire for a hearing, and that the failure to respond  
33 shall result in a default order forfeiting the confiscated firearm or  
34 other deadly weapon. For the purposes of this subdivision, the  
35 person's last known address shall be presumed to be the address  
36 provided to the law enforcement officer by that person at the time  
37 of the family violence incident. In the event the person whose  
38 firearm or other deadly weapon was seized does not reside at the  
39 last address provided to the agency, the agency shall make a

1 diligent, good faith effort to learn the whereabouts of the person  
2 and to comply with these notification requirements.

3 (h) If the person requests a hearing, the court clerk shall set a  
4 hearing no later than 30 days from receipt of that request. The  
5 court clerk shall notify the person, the law enforcement agency  
6 involved, and the district attorney of the date, time, and place of  
7 the hearing. Unless it is shown by a preponderance of the  
8 evidence that the return of the firearm or other deadly weapon  
9 would result in endangering the victim or the person reporting  
10 the assault or threat, the court shall order the return of the firearm  
11 or other deadly weapon and shall award reasonable attorney's  
12 fees to the prevailing party.

13 (i) If the person does not request a hearing or does not  
14 otherwise respond within 30 days of the receipt of the notice, the  
15 law enforcement agency may file a petition for an order of  
16 default and may dispose of the firearm or other deadly weapon as  
17 provided in Section 12028.

18 (j) If, at the hearing, the court does not order the return of the  
19 firearm or other deadly weapon to the owner or person who had  
20 lawful possession, that person may petition the court for a second  
21 hearing within 12 months from the date of the initial hearing. If  
22 there is a petition for a second hearing, unless it is shown by  
23 clear and convincing evidence that the return of the firearm or  
24 other deadly weapon would result in endangering the victim or  
25 the person reporting the assault or threat, the court shall order the  
26 return of the firearm or other deadly weapon and shall award  
27 reasonable attorney's fees to the prevailing party. If the owner or  
28 person who had lawful possession does not petition the court  
29 within this 12-month period for a second hearing or is  
30 unsuccessful at the second hearing in gaining return of the  
31 firearm or other deadly weapon, the firearm or other deadly  
32 weapon may be disposed of as provided in Section 12028.

33 (k) The law enforcement agency, or the individual law  
34 enforcement officer, shall not be liable for any act in the good  
35 faith exercise of this section.

36 *SEC. 7.5. Section 12036 of the Penal Code is amended to*  
37 *read:*

38 12036. (a) As used in this section, the following definitions  
39 shall apply:

1 (1) "Locking device" means a device that is designed to  
2 prevent the firearm from functioning and when applied to the  
3 firearm, renders the firearm inoperable.

4 (2) "Child" means a person under the age of 18 years.

5 (3) "Off-premises" means premises other than the premises  
6 where the firearm was stored.

7 (4) "Locked container" has the same meaning as set forth in  
8 subdivision (d) of Section 12026.2.

9 (b) A person who keeps a pistol, revolver, or other firearm  
10 capable of being concealed upon the person, loaded or unloaded,  
11 within any premises that are under his or her custody or control  
12 and he or she knows or reasonably should know that a child is  
13 likely to gain access to that firearm without the permission of the  
14 child's parent or legal guardian and the child obtains access to  
15 that firearm and thereafter carries that firearm off-premises, shall  
16 be punished by imprisonment in a county jail not exceeding one  
17 year, by a fine not exceeding one thousand dollars (\$1,000), or  
18 by both that imprisonment and fine.

19 (c) A person who keeps any firearm within any premises that  
20 is under his or her custody or control and he or she knows or  
21 reasonably should know that a child is likely to gain access to the  
22 firearm without the permission of the child's parent or legal  
23 guardian and the child obtains access to the firearm and  
24 thereafter carries that firearm off-premises to any public or  
25 private preschool, elementary school, middle school, high school,  
26 or to any school-sponsored event, activity, or performance  
27 whether occurring on school grounds or elsewhere, shall be  
28 punished by imprisonment in a county jail not exceeding one  
29 year, by a fine not exceeding five thousand dollars (\$5,000), or  
30 by both that imprisonment and fine.

31 (d) A pistol, revolver, or other firearm capable of being  
32 concealed upon the person that a child gains access to and carries  
33 off-premises in violation of this section shall be deemed "used in  
34 the commission of any misdemeanor as provided in this code or  
35 any felony" for the purpose of subdivision (b) of Section 12028  
36 regarding the authority to confiscate firearms and other deadly  
37 weapons as a nuisance.

38 (e) This section shall not apply if any one of the following  
39 circumstances exists:

1 (1) The child obtains the ~~pistol, revolver, or other firearm~~  
2 ~~capable of being concealed upon the person~~ *firearm* as a result of  
3 an illegal entry into any premises by any person.

4 (2) The ~~pistol, revolver, or other firearm capable of being~~  
5 ~~concealed upon the person~~ *firearm* is kept in a locked container  
6 or in a location that a reasonable person would believe to be  
7 secure.

8 (3) The ~~pistol, revolver, or other firearm capable of being~~  
9 ~~concealed upon the person~~ *firearm* is locked with a locking  
10 device that has rendered the firearm inoperable.

11 (4) The ~~pistol, revolver, or other firearm capable of being~~  
12 ~~concealed upon a person~~ *firearm* is carried on the person within  
13 such a close range that the individual can readily retrieve and use  
14 the firearm as if carried on the person.

15 (5) The person is a peace officer or a member of the Armed  
16 Forces or National Guard and the child obtains the ~~pistol,~~  
17 ~~revolver, or other firearm capable of being concealed upon the~~  
18 ~~person~~ *firearm* during, or incidental to, the performance of the  
19 person's duties.

20 (6) The child obtains, or obtains and discharges, the ~~pistol,~~  
21 ~~revolver, or other firearm capable of being concealed upon the~~  
22 ~~person~~ *firearm* in a lawful act of self-defense or defense of  
23 another person or persons.

24 (7) The person who keeps a ~~pistol, revolver, or other firearm~~  
25 ~~capable of being concealed upon the person~~ *firearm* has no  
26 reasonable expectation, based on objective facts and  
27 circumstances, that a child is likely to be present on the premises.

28 (f) If the person who allegedly violated this section is the  
29 parent or guardian of a child who is injured or who dies as the  
30 result of an accidental shooting, the district attorney shall  
31 consider, among other factors, the impact of the injury or death  
32 on the person alleged to have violated this section when deciding  
33 whether to prosecute the alleged violation. It is the Legislature's  
34 intent that a parent or guardian of a child who is injured or who  
35 dies as the result of an accidental shooting shall be prosecuted  
36 only in those instances in which the parent or guardian behaved  
37 in a grossly negligent manner or where similarly egregious  
38 circumstances exist. This subdivision shall not otherwise restrict,  
39 in any manner, the factors that a district attorney may consider

1 when deciding whether to prosecute alleged violations of this  
2 section.

3 (g) If the person who allegedly violated this section is the  
4 parent or guardian of a child who is injured or who dies as the  
5 result of an accidental shooting, no arrest of the person for the  
6 alleged violation of this section shall occur until at least seven  
7 days after the date upon which the accidental shooting occurred.

8 In addition to the limitation contained in this subdivision, a law  
9 enforcement officer shall consider the health status of a child  
10 who suffers great bodily injury as the result of an accidental  
11 shooting prior to arresting a person for a violation of this section,  
12 if the person to be arrested is the parent or guardian of the injured  
13 child. The intent of this subdivision is to encourage law  
14 enforcement officials to delay the arrest of a parent or guardian  
15 of a seriously injured child while the child remains on  
16 life-support equipment or is in a similarly critical medical  
17 condition.

18 (h) (1) The fact that the person who allegedly violated this  
19 section attended a firearm safety training course prior to the  
20 purchase of the firearm that is obtained by a child in violation of  
21 this section shall be considered a mitigating factor by a district  
22 attorney when he or she is deciding whether to prosecute the  
23 alleged violation.

24 (2) In any action or trial commenced under this section, the  
25 fact that the person who allegedly violated this section attended a  
26 firearm safety training course prior to the purchase of the firearm  
27 that is obtained by a child in violation of this section, shall be  
28 admissible.

29 (i) Every person licensed under Section 12071 shall post  
30 within the licensed premises the notice required by paragraph (7)  
31 of subdivision (b) of that section, disclosing the duty imposed by  
32 this section upon any person who keeps any firearm.

33 SEC. 8. Section 12070 of the Penal Code is amended to read:

34 12070. (a) No person shall sell, lease, or transfer firearms  
35 unless he or she has been issued a license pursuant to Section  
36 12071. Any person violating this section is guilty of a  
37 misdemeanor.

38 (b) Subdivision (a) does not include any of the following:

39 (1) The sale, lease, or transfer of any firearm by a person  
40 acting pursuant to operation of law, a court order, or pursuant to

1 the Enforcement of Judgments Law (Title 9 (commencing with  
2 Section 680.010) of Part 2 of the Code of Civil Procedure), or by  
3 a person who liquidates a personal firearm collection to satisfy a  
4 court judgment.

5 (2) A person acting pursuant to subdivision (e) of Section  
6 186.22a or subdivision (c) of Section 12028.

7 (3) The sale, lease, or transfer of a firearm by a person who  
8 obtains title to the firearm by intestate succession or by bequest  
9 or as a surviving spouse pursuant to Chapter 1 (commencing with  
10 Section 13500) of Part 2 of Division 8 of the Probate Code,  
11 provided the person disposes of the firearm within 60 days of  
12 receipt of the firearm.

13 (4) The infrequent sale, lease, or transfer of firearms.

14 (5) The sale, lease, or transfer of used firearms other than  
15 pistols, revolvers, or other firearms capable of being concealed  
16 upon the person, at gun shows or events, as specified in Section  
17 12071, by a person other than a licensee or dealer, provided the  
18 person has a valid federal firearms license and a current  
19 certificate of eligibility issued by the Department of Justice, as  
20 specified in Section 12071, and provided all the sales, leases, or  
21 transfers fully comply with subdivision (d) of Section 12072.  
22 However, the person shall not engage in the sale, lease, or  
23 transfer of used firearms other than pistols, revolvers, or other  
24 firearms capable of being concealed upon the person at more  
25 than 12 gun shows or events in any calendar year and shall not  
26 sell, lease, or transfer more than 15 used firearms other than  
27 pistols, revolvers, or other firearms capable of being concealed  
28 upon the person at any single gun show or event. In no event  
29 shall the person sell more than 75 used firearms other than  
30 pistols, revolvers, or other firearms capable of being concealed  
31 upon the person in any calendar year.

32 A person described in this paragraph shall be known as a “Gun  
33 Show Trader.”

34 The Department of Justice shall adopt regulations to administer  
35 this program and shall recover the full costs of administration  
36 from fees assessed applicants.

37 As used in this paragraph, the term “used firearm” means a  
38 firearm that has been sold previously at retail and is more than  
39 three years old.



1 (6) Deliveries, sales, or transfers of firearms between or to  
2 importers and manufacturers of firearms licensed to engage in  
3 business pursuant to Chapter 44 (commencing with Section 921)  
4 of Title 18 of the United States Code and the regulations issued  
5 pursuant thereto.

6 (7) The sale, delivery, or transfer of firearms by manufacturers  
7 or importers licensed pursuant to Chapter 44 (commencing with  
8 Section 921) of Title 18 of the United States Code and the  
9 regulations issued pursuant thereto to dealers or wholesalers.

10 (8) Deliveries and transfers of firearms made pursuant to  
11 Section 12028, 12028.5, or 12030.

12 (9) The loan of a firearm for the purposes of shooting at  
13 targets, if the loan occurs on the premises of a target facility  
14 which holds a business or regulatory license or on the premises  
15 of any club or organization organized for the purposes of  
16 practicing shooting at targets upon established ranges, whether  
17 public or private, if the firearm is at all times kept within the  
18 premises of the target range or on the premises of the club or  
19 organization.

20 (10) Sales, deliveries, or transfers of firearms by  
21 manufacturers, importers, or wholesalers licensed pursuant to  
22 Chapter 44 (commencing with Section 921) of Title 18 of the  
23 United States Code and the regulations issued pursuant thereto to  
24 persons who reside outside this state who are licensed pursuant to  
25 Chapter 44 (commencing with Section 921) of Title 18 of the  
26 United States Code and the regulations issued pursuant thereto, if  
27 the sale, delivery, or transfer is in accordance with Chapter 44  
28 (commencing with Section 921) of Title 18 of the United States  
29 Code and the regulations issued pursuant thereto.

30 (11) Sales, deliveries, or transfers of firearms by persons who  
31 reside outside this state and are licensed outside this state  
32 pursuant to Chapter 44 (commencing with Section 921) of Title  
33 18 of the United States Code and the regulations issued pursuant  
34 thereto to wholesalers, manufacturers, or importers, if the sale,  
35 delivery, or transfer is in accordance with Chapter 44  
36 (commencing with Section 921) of Title 18 of the United States  
37 Code and the regulations issued pursuant thereto.

38 (12) Sales, deliveries, or transfers of firearms by wholesalers  
39 to dealers.

1 (13) Sales, deliveries, or transfers of firearms by persons who  
2 reside outside this state to persons licensed pursuant to Section  
3 12071, if the sale, delivery, or transfer is in accordance with  
4 Chapter 44 (commencing with Section 921) of Title 18 of the  
5 United States Code, and the regulations issued pursuant thereto.

6 (14) Sales, deliveries, or transfers of firearms by persons who  
7 reside outside this state and are licensed pursuant to Chapter 44  
8 (commencing with Section 921) of Title 18 of the United States  
9 Code and the regulations issued pursuant thereto to dealers, if the  
10 sale, delivery, or transfer is in accordance with Chapter 44  
11 (commencing with Section 921) of Title 18 of the United States  
12 Code and the regulations issued pursuant thereto.

13 (15) The delivery, sale, or transfer of an unloaded firearm by  
14 one wholesaler to another wholesaler if that firearm is intended  
15 as merchandise in the receiving wholesaler's business.

16 (16) The loan of an unloaded firearm or the loan of a firearm  
17 loaded with blank cartridges for use solely as a prop for a motion  
18 picture, television, or video production or entertainment or  
19 theatrical event.

20 (17) The delivery of an unloaded firearm that is a curio or  
21 relic, as defined in Section 478.11 of Title 27 of the Code of  
22 Federal Regulations, by a person licensed as a collector pursuant  
23 to Chapter 44 (commencing with Section 921) of Title 18 of the  
24 United States Code and the regulations issued pursuant thereto  
25 with a current certificate of eligibility issued pursuant to Section  
26 12071 to a dealer.

27 (c) (1) As used in this section, "infrequent" means:

28 (A) For pistols, revolvers, and other firearms capable of being  
29 concealed upon the person, less than six transactions per calendar  
30 year. For this purpose, "transaction" means a single sale, lease, or  
31 transfer of any number of pistols, revolvers, or other firearms  
32 capable of being concealed upon the person.

33 (B) For firearms other than pistols, revolvers, or other firearms  
34 capable of being concealed upon the person, occasional and  
35 without regularity.

36 (2) As used in this section, "operation of law" includes, but is  
37 not limited to, any of the following:

38 (A) The executor or administrator of an estate, if the estate  
39 includes firearms.

1 (B) A secured creditor or an agent or employee thereof when  
2 the firearms are possessed as collateral for, or as a result of, a  
3 default under a security agreement under the Commercial Code.

4 (C) A levying officer, as defined in Section 481.140, 511.060,  
5 or 680.260 of the Code of Civil Procedure.

6 (D) A receiver performing his or her functions as a receiver, if  
7 the receivership estate includes firearms.

8 (E) A trustee in bankruptcy performing his or her duties, if the  
9 bankruptcy estate includes firearms.

10 (F) An assignee for the benefit of creditors performing his or  
11 her functions as an assignee, if the assignment includes firearms.

12 (G) A transmutation of property between spouses pursuant to  
13 Section 850 of the Family Code.

14 (H) Firearms received by the family of a police officer or  
15 deputy sheriff from a local agency pursuant to Section 50081 of  
16 the Government Code.

17 (I) The transfer of a firearm by a law enforcement agency to  
18 the person who found the firearm where the delivery is to the  
19 person as the finder of the firearm pursuant to Article 1  
20 (commencing with Section 2080) of Chapter 4 of Division 3 of  
21 the Civil Code.

22 SEC. 9. Section 12071 of the Penal Code is amended to read:

23 12071. (a) (1) As used in this chapter, the term “licensee,”  
24 “person licensed pursuant to Section 12071,” or “dealer” means a  
25 person who has all of the following:

26 (A) A valid federal firearms license.

27 (B) Any regulatory or business license, or licenses, required  
28 by local government.

29 (C) A valid seller’s permit issued by the State Board of  
30 Equalization.

31 (D) A certificate of eligibility issued by the Department of  
32 Justice pursuant to paragraph (4).

33 (E) A license issued in the format prescribed by paragraph (6).

34 (F) Is among those recorded in the centralized list specified in  
35 subdivision (e).

36 (2) The duly constituted licensing authority of a city, county,  
37 or a city and county shall accept applications for, and may grant  
38 licenses permitting, licensees to sell firearms at retail within the  
39 city, county, or city and county. The duly constituted licensing

1 authority shall inform applicants who are denied licenses of the  
2 reasons for the denial in writing.

3 (3) No license shall be granted to any applicant who fails to  
4 provide a copy of his or her valid federal firearms license, valid  
5 seller's permit issued by the State Board of Equalization, and the  
6 certificate of eligibility described in paragraph (4).

7 (4) A person may request a certificate of eligibility from the  
8 Department of Justice and the Department of Justice shall issue a  
9 certificate to an applicant if the department's records indicate that  
10 the applicant is not a person who is prohibited from possessing  
11 firearms.

12 (5) The department shall adopt regulations to administer the  
13 certificate of eligibility program and shall recover the full costs  
14 of administering the program by imposing fees assessed to  
15 applicants who apply for those certificates.

16 (6) A license granted by the duly constituted licensing  
17 authority of any city, county, or city and county, shall be valid  
18 for not more than one year from the date of issuance and shall be  
19 in one of the following forms:

20 (A) In the form prescribed by the Attorney General.

21 (B) A regulatory or business license that states on its face  
22 "Valid for Retail Sales of Firearms" and is endorsed by the  
23 signature of the issuing authority.

24 (C) A letter from the duly constituted licensing authority  
25 having primary jurisdiction for the applicant's intended business  
26 location stating that the jurisdiction does not require any form of  
27 regulatory or business license or does not otherwise restrict or  
28 regulate the sale of firearms.

29 (7) Local licensing authorities may assess fees to recover their  
30 full costs of processing applications for licenses.

31 (b) A license is subject to forfeiture for a breach of any of the  
32 following prohibitions and requirements:

33 (1) (A) Except as provided in subparagraphs (B) and (C), the  
34 business shall be conducted only in the buildings designated in  
35 the license.

36 (B) A person licensed pursuant to subdivision (a) may take  
37 possession of firearms and commence preparation of registers for  
38 the sale, delivery, or transfer of firearms at gun shows or events,  
39 as defined in Section 478.100 of Title 27 of the Code of Federal  
40 Regulations, or its successor, if the gun show or event is not

1 conducted from any motorized or towed vehicle. A person  
2 conducting business pursuant to this subparagraph shall be  
3 entitled to conduct business as authorized herein at any gun show  
4 or event in the state without regard to the jurisdiction within this  
5 state that issued the license pursuant to subdivision (a), provided  
6 the person complies with (i) all applicable laws, including, but  
7 not limited to, the waiting period specified in subparagraph (A)  
8 of paragraph (3), and (ii) all applicable local laws, regulations,  
9 and fees, if any.

10 A person conducting business pursuant to this subparagraph  
11 shall publicly display his or her license issued pursuant to  
12 subdivision (a), or a facsimile thereof, at any gun show or event,  
13 as specified in this subparagraph.

14 (C) A person licensed pursuant to subdivision (a) may engage  
15 in the sale and transfer of firearms other than pistols, revolvers,  
16 or other firearms capable of being concealed upon the person, at  
17 events specified in subdivision (g) of Section 12078, subject to  
18 the prohibitions and restrictions contained in that subdivision.

19 A person licensed pursuant to subdivision (a) also may accept  
20 delivery of firearms other than pistols, revolvers, or other  
21 firearms capable of being concealed upon the person, outside the  
22 building designated in the license, provided the firearm is being  
23 donated for the purpose of sale or transfer at an auction or similar  
24 event specified in subdivision (g) of Section 12078.

25 (D) The firearm may be delivered to the purchaser, transferee,  
26 or person being loaned the firearm at one of the following places:

- 27 (i) The building designated in the license.  
28 (ii) The places specified in subparagraph (B) or (C).  
29 (iii) The place of residence of, the fixed place of business of,  
30 or on private property owned or lawfully possessed by, the  
31 purchaser, transferee, or person being loaned the firearm.

32 (2) The license or a copy thereof, certified by the issuing  
33 authority, shall be displayed on the premises where it can easily  
34 be seen.

35 (3) No firearm shall be delivered:

36 (A) Within 10 days of the application to purchase, or, after  
37 notice by the department pursuant to subdivision (d) of Section  
38 12076, within 10 days of the submission to the department of any  
39 correction to the application, or within 10 days of the submission

1 to the department of any fee required pursuant to subdivision (e)  
2 of Section 12076, whichever is later.

3 (B) Unless unloaded and securely wrapped or unloaded and in  
4 a locked container.

5 (C) Unless the purchaser, transferee, or person being loaned  
6 the firearm presents clear evidence of his or her identity and age  
7 to the dealer.

8 (D) Whenever the dealer is notified by the Department of  
9 Justice that the person is in a prohibited class described in  
10 Section 12021 or 12021.1 of this code or Section 8100 or 8103 of  
11 the Welfare and Institutions Code. The dealer shall make  
12 available to the person in the prohibited class a prohibited notice  
13 and transfer form, provided by the department, stating that the  
14 person is prohibited from owning or possessing a firearm, and  
15 that the person may obtain from the department the reason for the  
16 prohibition.

17 (4) No pistol, revolver, or other firearm or imitation thereof  
18 capable of being concealed upon the person, or placard  
19 advertising the sale or other transfer thereof, shall be displayed in  
20 any part of the premises where it can readily be seen from the  
21 outside.

22 (5) The licensee shall agree to and shall act properly and  
23 promptly in processing firearms transactions pursuant to Section  
24 12082.

25 (6) The licensee shall comply with Sections 12073, 12076, and  
26 12077, subdivisions (a) and (b) and paragraph (1) of subdivision  
27 (f) of Section 12072, and subdivision (a) of Section 12316.

28 (7) The licensee shall post conspicuously within the licensed  
29 premises the following warnings in block letters not less than one  
30 inch in height:

31 (A) "IF YOU KEEP A LOADED FIREARM WITHIN ANY  
32 PREMISES UNDER YOUR CUSTODY OR CONTROL, AND  
33 A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND  
34 USES IT, RESULTING IN INJURY OR DEATH, OR  
35 CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY  
36 OF A MISDEMEANOR OR A FELONY UNLESS YOU  
37 STORED THE FIREARM IN A LOCKED CONTAINER OR  
38 LOCKED THE FIREARM WITH A LOCKING DEVICE, TO  
39 KEEP IT FROM TEMPORARILY FUNCTIONING."

1 (B) "IF YOU KEEP A PISTOL, REVOLVER, OR OTHER  
2 FIREARM CAPABLE OF BEING CONCEALED UPON THE  
3 PERSON, WITHIN ANY PREMISES UNDER YOUR  
4 CUSTODY OR CONTROL, AND A PERSON UNDER 18  
5 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND  
6 CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A  
7 MISDEMEANOR, UNLESS YOU STORED THE FIREARM  
8 IN A LOCKED CONTAINER, OR LOCKED THE FIREARM  
9 WITH A LOCKING DEVICE, TO KEEP IT FROM  
10 TEMPORARILY FUNCTIONING."

11 (C) "IF YOU KEEP ANY FIREARM WITHIN ANY  
12 PREMISES UNDER YOUR CUSTODY OR CONTROL, AND  
13 A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO  
14 THE FIREARM, AND CARRIES IT OFF-PREMISES TO A  
15 SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY  
16 BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE  
17 OF UP TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS  
18 YOU STORED THE FIREARM IN A LOCKED CONTAINER,  
19 OR LOCKED THE FIREARM WITH A LOCKING DEVICE."

20 (D) "DISCHARGING FIREARMS IN POORLY  
21 VENTILATED AREAS, CLEANING FIREARMS, OR  
22 HANDLING AMMUNITION MAY RESULT IN EXPOSURE  
23 TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH  
24 DEFECTS, REPRODUCTIVE HARM, AND OTHER  
25 SERIOUS PHYSICAL INJURY. HAVE ADEQUATE  
26 VENTILATION AT ALL TIMES. WASH HANDS  
27 THOROUGHLY AFTER EXPOSURE."

28 (E) "FEDERAL REGULATIONS PROVIDE THAT IF YOU  
29 DO NOT TAKE PHYSICAL POSSESSION OF THE  
30 FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF  
31 WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL  
32 BACKGROUND CHECK PAPERWORK, THEN YOU HAVE  
33 TO GO THROUGH THE BACKGROUND CHECK PROCESS  
34 A SECOND TIME IN ORDER TO TAKE PHYSICAL  
35 POSSESSION OF THAT FIREARM."

36 (F) "NO PERSON SHALL MAKE AN APPLICATION TO  
37 PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR  
38 OTHER FIREARM CAPABLE OF BEING CONCEALED  
39 UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND  
40 NO DELIVERY SHALL BE MADE TO ANY PERSON WHO

1 HAS MADE AN APPLICATION TO PURCHASE MORE  
2 THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM  
3 CAPABLE OF BEING CONCEALED UPON THE PERSON  
4 WITHIN ANY 30-DAY PERIOD.”

5 (8) (A) Commencing April 1, 1994, and until January 1, 2003,  
6 no pistol, revolver, or other firearm capable of being concealed  
7 upon the person shall be delivered unless the purchaser,  
8 transferee, or person being loaned the firearm presents to the  
9 dealer a basic firearms safety certificate.

10 (B) Commencing January 1, 2003, no dealer may deliver a  
11 handgun unless the person receiving the handgun presents to the  
12 dealer a valid handgun safety certificate. The firearms dealer  
13 shall retain a photocopy of the handgun safety certificate as proof  
14 of compliance with this requirement.

15 (C) Commencing January 1, 2003, no handgun may be  
16 delivered unless the purchaser, transferee, or person being loaned  
17 the firearm presents documentation indicating that he or she is a  
18 California resident. Satisfactory documentation shall include a  
19 utility bill from within the last three months, a residential lease, a  
20 property deed, or military permanent duty station orders  
21 indicating assignment within this state, or other evidence of  
22 residency as permitted by the Department of Justice. The  
23 firearms dealer shall retain a photocopy of the documentation as  
24 proof of compliance with this requirement.

25 (D) Commencing January 1, 2003, except as authorized by the  
26 department, no firearms dealer may deliver a handgun unless the  
27 recipient performs a safe handling demonstration with that  
28 handgun. The demonstration shall commence with the handgun  
29 unloaded and locked with the firearm safety device with which it  
30 is required to be delivered, if applicable. While maintaining  
31 muzzle awareness, that is, the firearm is pointed in a safe  
32 direction, preferably down at the ground, and trigger discipline,  
33 that is, the trigger finger is outside of the trigger guard and along  
34 side of the handgun frame, at all times, the handgun recipient  
35 shall correctly and safely perform the following:

36 (i) If the handgun is a semiautomatic pistol:

37 (I) Remove the magazine.

38 (II) Lock the slide back. If the model of firearm does not allow  
39 the slide to be locked back, pull the slide back, visually and  
40 physically check the chamber to ensure that it is clear.



1 (III) Visually and physically inspect the chamber, to ensure  
2 that the handgun is unloaded.

3 (IV) Remove the firearm safety device, if applicable. If the  
4 firearm safety device prevents any of the previous steps, remove  
5 the firearm safety device during the appropriate step.

6 (V) Load one bright orange, red, or other readily identifiable  
7 dummy round into the magazine. If no readily identifiable  
8 dummy round is available, an empty cartridge casing with an  
9 empty primer pocket may be used.

10 (VI) Insert the magazine into the magazine well of the firearm.

11 (VII) Manipulate the slide release or pull back and release the  
12 slide.

13 (VIII) Remove the magazine.

14 (IX) Visually inspect the chamber to reveal that a round can be  
15 chambered with the magazine removed.

16 (X) Lock the slide back to eject the bright orange, red, or other  
17 readily identifiable dummy round. If the handgun is of a model  
18 that does not allow the slide to be locked back, pull the slide back  
19 and physically check the chamber to ensure that the chamber is  
20 clear. If no readily identifiable dummy round is available, an  
21 empty cartridge casing with an empty primer pocket may be  
22 used.

23 (XI) Apply the safety, if applicable.

24 (XII) Apply the firearm safety device, if applicable. This  
25 requirement shall not apply to an Olympic competition pistol if  
26 no firearms safety device, other than a cable lock that the  
27 department has determined would damage the barrel of the pistol,  
28 has been approved for the pistol, and the pistol is either listed in  
29 paragraph (2) of subdivision (h) of Section 12132 or is subject to  
30 paragraph (3) of subdivision (h) of Section 12132.

31 (ii) If the handgun is a double-action revolver:

32 (I) Open the cylinder.

33 (II) Visually and physically inspect each chamber, to ensure  
34 that the revolver is unloaded.

35 (III) Remove the firearm safety device. If the firearm safety  
36 device prevents any of the previous steps, remove the firearm  
37 safety device during the appropriate step.

38 (IV) While maintaining muzzle awareness and trigger  
39 discipline, load one bright orange, red, or other readily  
40 identifiable dummy round into a chamber of the cylinder and

- 1 rotate the cylinder so that the round is in the next-to-fire position.
- 2 If no readily identifiable dummy round is available, an empty
- 3 cartridge casing with an empty primer pocket may be used.
- 4 (V) Close the cylinder.
- 5 (VI) Open the cylinder and eject the round.
- 6 (VII) Visually and physically inspect each chamber to ensure
- 7 that the revolver is unloaded.
- 8 (VIII) Apply the firearm safety device, if applicable. This
- 9 requirement shall not apply to an Olympic competition pistol if
- 10 no firearms safety device, other than a cable lock that the
- 11 department has determined would damage the barrel of the pistol,
- 12 has been approved for the pistol, and the pistol is either listed in
- 13 paragraph (2) of subdivision (h) of Section 12132 or is subject to
- 14 paragraph (3) of subdivision (h) of Section 12132.
- 15 (iii) If the handgun is a single-action revolver:
- 16 (I) Open the loading gate.
- 17 (II) Visually and physically inspect each chamber, to ensure
- 18 that the revolver is unloaded.
- 19 (III) Remove the firearm safety device required to be sold with
- 20 the handgun. If the firearm safety device prevents any of the
- 21 previous steps, remove the firearm safety device during the
- 22 appropriate step.
- 23 (IV) Load one bright orange, red, or other readily identifiable
- 24 dummy round into a chamber of the cylinder, close the loading
- 25 gate and rotate the cylinder so that the round is in the next-to-fire
- 26 position. If no readily identifiable dummy round is available, an
- 27 empty cartridge casing with an empty primer pocket may be
- 28 used.
- 29 (V) Open the loading gate and unload the revolver.
- 30 (VI) Visually and physically inspect each chamber to ensure
- 31 that the revolver is unloaded.
- 32 (VII) Apply the firearm safety device, if applicable. This
- 33 requirement shall not apply to an Olympic competition pistol if
- 34 no firearms safety device, other than a cable lock that the
- 35 department has determined would damage the barrel of the pistol,
- 36 has been approved for the pistol, and the pistol is either listed in
- 37 paragraph (2) of subdivision (h) of Section 12132 or is subject to
- 38 paragraph (3) of subdivision (h) of Section 12132.
- 39 (E) The recipient shall receive instruction regarding how to
- 40 render that handgun safe in the event of a jam.

1 (F) The firearms dealer shall sign and date an affidavit stating  
2 that the requirements of subparagraph (D) have been met. The  
3 firearms dealer shall additionally obtain the signature of the  
4 handgun purchaser on the same affidavit. The firearms dealer  
5 shall retain the original affidavit as proof of compliance with this  
6 requirement.

7 (G) The recipient shall perform the safe handling  
8 demonstration for a department certified instructor.

9 (H) No demonstration shall be required if the dealer is  
10 returning the handgun to the owner of the handgun.

11 (I) Department certified instructors who may administer the  
12 safe handling demonstration shall meet the requirements set forth  
13 in subdivision (j) of Section 12804.

14 (J) The persons who are exempt from the requirements of  
15 subdivision (b) of Section 12801, pursuant to Section 12807, are  
16 also exempt from performing the safe handling demonstration.

17 (9) Commencing July 1, 1992, the licensee shall offer to  
18 provide the purchaser or transferee of a firearm, or person being  
19 loaned a firearm, with a copy of the pamphlet described in  
20 Section 12080 and may add the cost of the pamphlet, if any, to  
21 the sales price of the firearm.

22 (10) The licensee shall not commit an act of collusion as  
23 defined in Section 12072.

24 (11) The licensee shall post conspicuously within the licensed  
25 premises a detailed list of each of the following:

26 (A) All charges required by governmental agencies for  
27 processing firearm transfers required by Sections 12076, 12082,  
28 and 12806.

29 (B) All fees that the licensee charges pursuant to Sections  
30 12082 and 12806.

31 (12) The licensee shall not misstate the amount of fees charged  
32 by a governmental agency pursuant to Sections 12076, 12082,  
33 and 12806.

34 (13) Except as provided in subparagraphs (B) and (C) of  
35 paragraph (1) of subdivision (b), all firearms that are in the  
36 inventory of the licensee shall be kept within the licensed  
37 location. The licensee shall report the loss or theft of any firearm  
38 that is merchandise of the licensee, any firearm that the licensee  
39 takes possession of pursuant to Section 12082, or any firearm  
40 kept at the licensee's place of business within 48 hours of

1 discovery to the appropriate law enforcement agency in the city,  
2 county, or city and county where the licensee's business premises  
3 are located.

4 (14) Except as provided in subparagraphs (B) and (C) of  
5 paragraph (1) of subdivision (b), any time when the licensee is  
6 not open for business, all inventory firearms shall be stored in the  
7 licensed location. All firearms shall be secured using one of the  
8 following methods as to each particular firearm:

9 (A) Store the firearm in a secure facility that is a part of, or  
10 that constitutes, the licensee's business premises.

11 (B) Secure the firearm with a hardened steel rod or cable of at  
12 least one-eighth inch in diameter through the trigger guard of the  
13 firearm. The steel rod or cable shall be secured with a hardened  
14 steel lock that has a shackle. The lock and shackle shall be  
15 protected or shielded from the use of a bolt cutter and the rod or  
16 cable shall be anchored in a manner that prevents the removal of  
17 the firearm from the premises.

18 (C) Store the firearm in a locked fireproof safe or vault in the  
19 licensee's business premises.

20 (15) The licensing authority in an unincorporated area of a  
21 county or within a city may impose security requirements that are  
22 more strict or are at a higher standard than those specified in  
23 paragraph (14).

24 (16) Commencing January 1, 1994, the licensee shall, upon the  
25 issuance or renewal of a license, submit a copy of the same to the  
26 Department of Justice.

27 (17) The licensee shall maintain and make available for  
28 inspection during business hours to any peace officer, authorized  
29 local law enforcement employee, or Department of Justice  
30 employee designated by the Attorney General, upon the  
31 presentation of proper identification, a firearms transaction  
32 record.

33 (18) (A) On the date of receipt, the licensee shall report to the  
34 Department of Justice in a format prescribed by the department  
35 the acquisition by the licensee of the ownership of a pistol,  
36 revolver, or other firearm capable of being concealed upon the  
37 person.

38 (B) The provisions of this paragraph shall not apply to any of  
39 the following transactions:

1 (i) A transaction subject to the provisions of subdivision (n) of  
2 Section 12078.

3 (ii) The dealer acquired the firearm from a wholesaler.

4 (iii) The dealer is also licensed as a secondhand dealer  
5 pursuant to Article 4 (commencing with Section 21625) of  
6 Chapter 9 of Division 8 of the Business and Professions Code.

7 (iv) The dealer acquired the firearm from a person who is  
8 licensed as a manufacturer or importer to engage in those  
9 activities pursuant to Chapter 44 (commencing with Section 921)  
10 of Title 18 of the United States Code and any regulations issued  
11 pursuant thereto.

12 (v) The dealer acquired the firearm from a person who resides  
13 outside this state who is licensed pursuant to Chapter 44  
14 (commencing with Section 921) of Title 18 of the United States  
15 Code and any regulations issued pursuant thereto.

16 (19) The licensee shall forward in a format prescribed by the  
17 Department of Justice, information as required by the department  
18 on any firearm that is not delivered within the time period set  
19 forth in Section 478.102 (c) of Title 27 of the Code of Federal  
20 Regulations.

21 (20) (A) Firearms dealers may require any agent who handles,  
22 sells, or delivers firearms to obtain and provide to the dealer a  
23 certificate of eligibility from the department pursuant to  
24 paragraph (4) of subdivision (a). The agent or employee shall  
25 provide on the application, the name and California firearms  
26 dealer number of the firearms dealer with whom he or she is  
27 employed.

28 (B) The department shall notify the firearms dealer in the  
29 event that the agent or employee who has a certificate of  
30 eligibility is or becomes prohibited from possessing firearms.

31 (C) If the local jurisdiction requires a background check of the  
32 agents or employees of the firearms dealer, the agent or  
33 employee shall obtain a certificate of eligibility pursuant to  
34 subparagraph (A).

35 (D) Nothing in this paragraph shall be construed to preclude a  
36 local jurisdiction from conducting an additional background  
37 check pursuant to Section 11105 or prohibiting employment  
38 based on criminal history that does not appear as part of  
39 obtaining a certificate of eligibility, provided however, that the

1 local jurisdiction may not charge a fee for the additional criminal  
2 history check.

3 (E) The licensee shall prohibit any agent who the licensee  
4 knows or reasonably should know is within a class of persons  
5 prohibited from possessing firearms pursuant to Section 12021 or  
6 12021.1 of this code, or Section 8100 or 8103 of the Welfare and  
7 Institutions Code, from coming into contact with any firearm that  
8 is not secured and from accessing any key, combination, code, or  
9 other means to open any of the locking devices described in  
10 clause (ii) of subparagraph (G) of this paragraph.

11 (F) Nothing in this paragraph shall be construed as preventing  
12 a local government from enacting an ordinance imposing  
13 additional conditions on licensees with regard to agents.

14 (G) For purposes of this section, the following definitions shall  
15 apply:

16 (i) An “agent” is an employee of the licensee.

17 (ii) “Secured” means a firearm that is made inoperable in one  
18 or more of the following ways:

19 (I) The firearm is inoperable because it is secured by a  
20 firearms safety device listed on the department’s roster of  
21 approved firearms safety devices pursuant to subdivision (d) of  
22 Section 12088 of this chapter.

23 (II) The firearm is stored in a locked gun safe or long-gun safe  
24 which meets the standards for department-approved gun safes set  
25 forth in Section 12088.2.

26 (III) The firearm is stored in a distinct locked room or area in  
27 the building that is used to store firearms that can only be  
28 unlocked by a key, a combination, or similar means.

29 (IV) The firearm is secured with a hardened steel rod or cable  
30 that is at least one-eighth of an inch in diameter through the  
31 trigger guard of the firearm. The steel rod or cable shall be  
32 secured with a hardened steel lock that has a shackle. The lock  
33 and shackle shall be protected or shielded from the use of a bolt  
34 cutter and the rod or cable shall be anchored in a manner that  
35 prevents the removal of the firearm from the premises.

36 (c) (1) As used in this article, “clear evidence of his or her  
37 identity and age” means either of the following:

38 (A) A valid California driver’s license.

39 (B) A valid California identification card issued by the  
40 Department of Motor Vehicles.

1 (2) As used in this section, a “secure facility” means a building  
2 that meets all of the following specifications:

3 (A) All perimeter doorways shall meet one of the following:

4 (i) A windowless steel security door equipped with both a  
5 dead bolt and a doorknob lock.

6 (ii) A windowed metal door that is equipped with both a dead  
7 bolt and a doorknob lock. If the window has an opening of five  
8 inches or more measured in any direction, the window shall be  
9 covered with steel bars of at least ½-inch diameter or metal  
10 grating of at least 9 gauge affixed to the exterior or interior of the  
11 door.

12 (iii) A metal grate that is padlocked and affixed to the  
13 licensee’s premises independent of the door and doorframe.

14 (B) All windows are covered with steel bars.

15 (C) Heating, ventilating, air-conditioning, and service  
16 openings are secured with steel bars, metal grating, or an alarm  
17 system.

18 (D) Any metal grates have spaces no larger than six inches  
19 wide measured in any direction.

20 (E) Any metal screens have spaces no larger than three inches  
21 wide measured in any direction.

22 (F) All steel bars shall be no further than six inches apart.

23 (3) As used in this section, “licensed premises,” “licensed  
24 place of business,” “licensee’s place of business,” or “licensee’s  
25 business premises” means the building designated in the license.

26 (4) For purposes of paragraph (17) of subdivision (b):

27 (A) A “firearms transaction record” is a record containing the  
28 same information referred to in subdivision (a) of Section  
29 478.124, Section 478.124a, and subdivision (e) of Section  
30 478.125 of Title 27 of the Code of Federal Regulations.

31 (B) A licensee shall be in compliance with the provisions of  
32 paragraph (17) of subdivision (b) if he or she maintains and  
33 makes available for inspection during business hours to any  
34 peace officer, authorized local law enforcement employee, or  
35 Department of Justice employee designated by the Attorney  
36 General, upon the presentation of proper identification, the bound  
37 book containing the same information referred to in Section  
38 478.124a and subdivision (e) of Section 478.125 of Title 27 of  
39 the Code of Federal Regulations and the records referred to in

1 subdivision (a) of Section 478.124 of Title 27 of the Code of  
2 Federal Regulations.

3 (d) Upon written request from a licensee, the licensing  
4 authority may grant an exemption from compliance with the  
5 requirements of paragraph (14) of subdivision (b) if the licensee  
6 is unable to comply with those requirements because of local  
7 ordinances, covenants, lease conditions, or similar circumstances  
8 not under the control of the licensee.

9 (e) (1) Except as otherwise provided in this paragraph, the  
10 Department of Justice shall keep a centralized list of all persons  
11 licensed pursuant to subparagraphs (A) to (E), inclusive, of  
12 paragraph (1) of subdivision (a), and all persons who have  
13 submitted information pursuant to subdivision (a) of Section  
14 12083. The department may remove from this list any person  
15 who knowingly or with gross negligence violates this article.  
16 Upon removal of a dealer from this list, notification shall be  
17 provided to local law enforcement and licensing authorities in the  
18 jurisdiction where the dealer's business is located.

19 (2) The department shall remove from the centralized list any  
20 person whose federal firearms license has expired or has been  
21 revoked.

22 (3) Information compiled from the list shall be made available,  
23 upon request, for the following purposes only:

24 (A) For law enforcement purposes.

25 (B) When the information is requested by a person licensed  
26 pursuant to Chapter 44 (commencing with Section 921) of Title  
27 18 of the United States Code for determining the validity of the  
28 license for firearm shipments.

29 (C) When information is requested by a person promoting,  
30 sponsoring, operating, or otherwise organizing a show or event as  
31 defined in Section 478.100 of Title 27 of the Code of Federal  
32 Regulations, or its successor, who possesses a valid certificate of  
33 eligibility issued pursuant to Section 12071.1, if that information  
34 is requested by the person to determine the eligibility of a  
35 prospective participant in a gun show or event to conduct  
36 transactions as a firearms dealer pursuant to subparagraph (B) of  
37 paragraph (1) of subdivision (b).

38 (4) Information provided pursuant to paragraph (3) shall be  
39 limited to information necessary to corroborate an individual's  
40 current license status as being one of the following:



1 (A) A person licensed pursuant to subparagraphs (A) to (E),  
2 inclusive, of paragraph (1) of subdivision (a).

3 (B) A person licensed pursuant to Chapter 44 (commencing  
4 with Section 921) of Title 18 of the United States Code and who  
5 is not subject to the requirement that he or she be licensed  
6 pursuant to subparagraphs (A) to (E), inclusive, of paragraph (1)  
7 of subdivision (a).

8 (f) The Department of Justice may inspect dealers to ensure  
9 compliance with this article. The department may assess an  
10 annual fee, not to exceed one hundred fifteen dollars (\$115), to  
11 cover the reasonable cost of maintaining the list described in  
12 subdivision (e), including the cost of inspections. Dealers whose  
13 place of business is in a jurisdiction that has adopted an  
14 inspection program to ensure compliance with firearms law shall  
15 be exempt from that portion of the department's fee that relates  
16 to the cost of inspections. The applicant is responsible for  
17 providing evidence to the department that the jurisdiction in  
18 which the business is located has the inspection program.

19 (g) The Department of Justice shall maintain and make  
20 available upon request information concerning the number of  
21 inspections conducted and the amount of fees collected pursuant  
22 to subdivision (f), a listing of exempted jurisdictions, as defined  
23 in subdivision (f), the number of dealers removed from the  
24 centralized list defined in subdivision (e), and the number of  
25 dealers found to have violated this article with knowledge or  
26 gross negligence.

27 (h) Paragraph (14) or (15) of subdivision (b) shall not apply to  
28 a licensee organized as a nonprofit public benefit or mutual  
29 benefit corporation organized pursuant to Part 2 (commencing  
30 with Section 5110) or Part 3 (commencing with Section 7110) of  
31 Division 2 of the Corporations Code, if both of the following  
32 conditions are satisfied:

33 (1) The nonprofit public benefit or mutual benefit corporation  
34 obtained the dealer's license solely and exclusively to assist that  
35 corporation or local chapters of that corporation in conducting  
36 auctions or similar events at which firearms are auctioned off to  
37 fund the activities of that corporation or the local chapters of the  
38 corporation.

39 (2) The firearms are not pistols, revolvers, or other firearms  
40 capable of being concealed upon the person.

(i) (1) For every verification inquiry made pursuant to paragraph (1) of subdivision (f) of Section 12072, the department shall determine whether the intended recipient possesses an appropriate, valid license issued pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and, if applicable, is properly licensed pursuant to this section.

(2) If the intended recipient possesses an appropriate, valid license issued pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, and if applicable, is properly licensed pursuant to this section, the department shall immediately provide a unique verification number to the inquiring party.

(3) If the intended recipient does not possess an appropriate, valid license issued pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, or if applicable, is not properly licensed pursuant to this section, the department shall do all of the following:

(A) Immediately notify the inquiring party of that fact.

(B) Within 24 hours, notify the chief law enforcement officer of the jurisdiction where the address on the federal firearms license about which the inquiry was made is located, and notify an appropriate employee of the federal Bureau of Alcohol, Tobacco and Firearms of the denied verification.

SEC. 9.5. Section 12071 of the Penal Code is amended to read:

12071. (a) (1) As used in this chapter, the term “licensee,” “person licensed pursuant to Section 12071,” or “dealer” means a person who has all of the following:

(A) A valid federal firearms license.

(B) Any regulatory or business license, or licenses, required by local government.

(C) A valid seller’s permit issued by the State Board of Equalization.

(D) A certificate of eligibility issued by the Department of Justice pursuant to paragraph (4).

(E) A license issued in the format prescribed by paragraph (6).

(F) Is among those recorded in the centralized list specified in subdivision (e).

1 (2) The duly constituted licensing authority of a city, county,  
2 or a city and county shall accept applications for, and may grant  
3 licenses permitting, licensees to sell firearms at retail within the  
4 city, county, or city and county. The duly constituted licensing  
5 authority shall inform applicants who are denied licenses of the  
6 reasons for the denial in writing.

7 (3) No license shall be granted to any applicant who fails to  
8 provide a copy of his or her valid federal firearms license, valid  
9 seller's permit issued by the State Board of Equalization, and the  
10 certificate of eligibility described in paragraph (4).

11 (4) A person may request a certificate of eligibility from the  
12 Department of Justice and the Department of Justice shall issue a  
13 certificate to an applicant if the department's records indicate that  
14 the applicant is not a person who is prohibited from possessing  
15 firearms.

16 (5) The department shall adopt regulations to administer the  
17 certificate of eligibility program and shall recover the full costs  
18 of administering the program by imposing fees assessed to  
19 applicants who apply for those certificates.

20 (6) A license granted by the duly constituted licensing  
21 authority of any city, county, or city and county, shall be valid  
22 for not more than one year from the date of issuance and shall be  
23 in one of the following forms:

24 (A) In the form prescribed by the Attorney General.

25 (B) A regulatory or business license that states on its face  
26 "Valid for Retail Sales of Firearms" and is endorsed by the  
27 signature of the issuing authority.

28 (C) A letter from the duly constituted licensing authority  
29 having primary jurisdiction for the applicant's intended business  
30 location stating that the jurisdiction does not require any form of  
31 regulatory or business license or does not otherwise restrict or  
32 regulate the sale of firearms.

33 (7) Local licensing authorities may assess fees to recover their  
34 full costs of processing applications for licenses.

35 (b) A license is subject to forfeiture for a breach of any of the  
36 following prohibitions and requirements:

37 (1) (A) Except as provided in subparagraphs (B) and (C), the  
38 business shall be conducted only in the buildings designated in  
39 the license.

(B) A person licensed pursuant to subdivision (a) may take possession of firearms and commence preparation of registers for the sale, delivery, or transfer of firearms at gun shows or events, as defined in Section 478.100 of Title 27 of the Code of Federal Regulations, or its successor, if the gun show or event is not conducted from any motorized or towed vehicle. A person conducting business pursuant to this subparagraph shall be entitled to conduct business as authorized herein at any gun show or event in the state without regard to the jurisdiction within this state that issued the license pursuant to subdivision (a), provided the person complies with (i) all applicable laws, including, but not limited to, the waiting period specified in subparagraph (A) of paragraph (3), and (ii) all applicable local laws, regulations, and fees, if any.

A person conducting business pursuant to this subparagraph shall publicly display his or her license issued pursuant to subdivision (a), or a facsimile thereof, at any gun show or event, as specified in this subparagraph.

(C) A person licensed pursuant to subdivision (a) may engage in the sale and transfer of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, at events specified in subdivision (g) of Section 12078, subject to the prohibitions and restrictions contained in that subdivision.

A person licensed pursuant to subdivision (a) also may accept delivery of firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, outside the building designated in the license, provided the firearm is being donated for the purpose of sale or transfer at an auction or similar event specified in subdivision (g) of Section 12078.

(D) The firearm may be delivered to the purchaser, transferee, or person being loaned the firearm at one of the following places:

- (i) The building designated in the license.
- (ii) The places specified in subparagraph (B) or (C).
- (iii) The place of residence of, the fixed place of business of, or on private property owned or lawfully possessed by, the purchaser, transferee, or person being loaned the firearm.

(2) The license or a copy thereof, certified by the issuing authority, shall be displayed on the premises where it can easily be seen.

(3) No firearm shall be delivered:

1 (A) Within 10 days of the application to purchase, or, after  
2 notice by the department pursuant to subdivision (d) of Section  
3 12076, within 10 days of the submission to the department of any  
4 correction to the application, or within 10 days of the submission  
5 to the department of any fee required pursuant to subdivision (e)  
6 of Section 12076, whichever is later.

7 (B) Unless unloaded and securely wrapped or unloaded and in  
8 a locked container.

9 (C) Unless the purchaser, transferee, or person being loaned  
10 the firearm presents clear evidence of his or her identity and age  
11 to the dealer.

12 (D) Whenever the dealer is notified by the Department of  
13 Justice that the person is in a prohibited class described in  
14 Section 12021 or 12021.1 of this code or Section 8100 or 8103 of  
15 the Welfare and Institutions Code. The dealer shall make  
16 available to the person in the prohibited class a prohibited notice  
17 and transfer form, provided by the department, stating that the  
18 person is prohibited from owning or possessing a firearm, and  
19 that the person may obtain from the department the reason for the  
20 prohibition.

21 (4) No pistol, revolver, or other firearm or imitation thereof  
22 capable of being concealed upon the person, or placard  
23 advertising the sale or other transfer thereof, shall be displayed in  
24 any part of the premises where it can readily be seen from the  
25 outside.

26 (5) The licensee shall agree to and shall act properly and  
27 promptly in processing firearms transactions pursuant to Section  
28 12082.

29 (6) The licensee shall comply with Sections 12073, 12076, and  
30 12077, subdivisions (a) and (b) and paragraph (1) of subdivision  
31 (f) of Section 12072, and subdivision (a) of Section 12316.

32 (7) The licensee shall post conspicuously within the licensed  
33 premises the following warnings in block letters not less than one  
34 inch in height:

35 (A) "IF YOU KEEP A LOADED FIREARM WITHIN ANY  
36 PREMISES UNDER YOUR CUSTODY OR CONTROL, AND  
37 A PERSON UNDER 18 YEARS OF AGE OBTAINS IT AND  
38 USES IT, RESULTING IN INJURY OR DEATH, OR  
39 CARRIES IT TO A PUBLIC PLACE, YOU MAY BE GUILTY  
40 OF A MISDEMEANOR OR A FELONY UNLESS YOU

1 STORED THE FIREARM IN A LOCKED CONTAINER OR  
2 LOCKED THE FIREARM WITH A LOCKING DEVICE, TO  
3 KEEP IT FROM TEMPORARILY FUNCTIONING.”

4 (B) “IF YOU KEEP A PISTOL, REVOLVER, OR OTHER  
5 FIREARM CAPABLE OF BEING CONCEALED UPON THE  
6 PERSON, WITHIN ANY PREMISES UNDER YOUR  
7 CUSTODY OR CONTROL, AND A PERSON UNDER 18  
8 YEARS OF AGE GAINS ACCESS TO THE FIREARM, AND  
9 CARRIES IT OFF-PREMISES, YOU MAY BE GUILTY OF A  
10 MISDEMEANOR, UNLESS YOU STORED THE FIREARM  
11 IN A LOCKED CONTAINER, OR LOCKED THE FIREARM  
12 WITH A LOCKING DEVICE, TO KEEP IT FROM  
13 TEMPORARILY FUNCTIONING.”

14 (C) “IF YOU KEEP ANY FIREARM WITHIN ANY  
15 PREMISES UNDER YOUR CUSTODY OR CONTROL, AND  
16 A PERSON UNDER 18 YEARS OF AGE GAINS ACCESS TO  
17 THE FIREARM, AND CARRIES IT OFF-PREMISES TO A  
18 SCHOOL OR SCHOOL-SPONSORED EVENT, YOU MAY  
19 BE GUILTY OF A MISDEMEANOR, INCLUDING A FINE  
20 OF UP TO FIVE THOUSAND DOLLARS (\$5,000), UNLESS  
21 YOU STORED THE FIREARM IN A LOCKED CONTAINER,  
22 OR LOCKED THE FIREARM WITH A LOCKING DEVICE.”

23 (D) “DISCHARGING FIREARMS IN POORLY  
24 VENTILATED AREAS, CLEANING FIREARMS, OR  
25 HANDLING AMMUNITION MAY RESULT IN EXPOSURE  
26 TO LEAD, A SUBSTANCE KNOWN TO CAUSE BIRTH  
27 DEFECTS, REPRODUCTIVE HARM, AND OTHER  
28 SERIOUS PHYSICAL INJURY. HAVE ADEQUATE  
29 VENTILATION AT ALL TIMES. WASH HANDS  
30 THOROUGHLY AFTER EXPOSURE.”

31 (E) “FEDERAL REGULATIONS PROVIDE THAT IF YOU  
32 DO NOT TAKE PHYSICAL POSSESSION OF THE  
33 FIREARM THAT YOU ARE ACQUIRING OWNERSHIP OF  
34 WITHIN 30 DAYS AFTER YOU COMPLETE THE INITIAL  
35 BACKGROUND CHECK PAPERWORK, THEN YOU HAVE  
36 TO GO THROUGH THE BACKGROUND CHECK PROCESS  
37 A SECOND TIME IN ORDER TO TAKE PHYSICAL  
38 POSSESSION OF THAT FIREARM.”

39 (F) “NO PERSON SHALL MAKE AN APPLICATION TO  
40 PURCHASE MORE THAN ONE PISTOL, REVOLVER, OR

1 OTHER FIREARM CAPABLE OF BEING CONCEALED  
2 UPON THE PERSON WITHIN ANY 30-DAY PERIOD AND  
3 NO DELIVERY SHALL BE MADE TO ANY PERSON WHO  
4 HAS MADE AN APPLICATION TO PURCHASE MORE  
5 THAN ONE PISTOL, REVOLVER, OR OTHER FIREARM  
6 CAPABLE OF BEING CONCEALED UPON THE PERSON  
7 WITHIN ANY 30-DAY PERIOD.”

8 (8) (A) Commencing April 1, 1994, and until January 1, 2003,  
9 no pistol, revolver, or other firearm capable of being concealed  
10 upon the person shall be delivered unless the purchaser,  
11 transferee, or person being loaned the firearm presents to the  
12 dealer a basic firearms safety certificate.

13 (B) Commencing January 1, 2003, no dealer may deliver a  
14 handgun unless the person receiving the handgun presents to the  
15 dealer a valid handgun safety certificate. The firearms dealer  
16 shall retain a photocopy of the handgun safety certificate as proof  
17 of compliance with this requirement.

18 (C) Commencing January 1, 2003, no handgun may be  
19 delivered unless the purchaser, transferee, or person being loaned  
20 the firearm presents documentation indicating that he or she is a  
21 California resident. Satisfactory documentation shall include a  
22 utility bill from within the last three months, a residential lease, a  
23 property deed, or military permanent duty station orders  
24 indicating assignment within this state, or other evidence of  
25 residency as permitted by the Department of Justice. The  
26 firearms dealer shall retain a photocopy of the documentation as  
27 proof of compliance with this requirement.

28 (D) Commencing January 1, 2003, except as authorized by the  
29 department, no firearms dealer may deliver a handgun unless the  
30 recipient performs a safe handling demonstration with that  
31 handgun. The demonstration shall commence with the handgun  
32 unloaded and locked with the firearm safety device with which it  
33 is required to be delivered, if applicable. While maintaining  
34 muzzle awareness, that is, the firearm is pointed in a safe  
35 direction, preferably down at the ground, and trigger discipline,  
36 that is, the trigger finger is outside of the trigger guard and along  
37 side of the handgun frame, at all times, the handgun recipient  
38 shall correctly and safely perform the following:

39 (i) If the handgun is a semiautomatic pistol:

40 (I) Remove the magazine.

- 1 (II) Lock the slide back. If the model of firearm does not allow
- 2 the slide to be locked back, pull the slide back, visually and
- 3 physically check the chamber to ensure that it is clear.
- 4 (III) Visually and physically inspect the chamber, to ensure
- 5 that the handgun is unloaded.
- 6 (IV) Remove the firearm safety device, if applicable. If the
- 7 firearm safety device prevents any of the previous steps, remove
- 8 the firearm safety device during the appropriate step.
- 9 (V) Load one bright orange, red, or other readily identifiable
- 10 dummy round into the magazine. If no readily identifiable
- 11 dummy round is available, an empty cartridge casing with an
- 12 empty primer pocket may be used.
- 13 (VI) Insert the magazine into the magazine well of the firearm.
- 14 (VII) Manipulate the slide release or pull back and release the
- 15 slide.
- 16 (VIII) Remove the magazine.
- 17 (IX) Visually inspect the chamber to reveal that a round can be
- 18 chambered with the magazine removed.
- 19 (X) Lock the slide back to eject the bright orange, red, or other
- 20 readily identifiable dummy round. If the handgun is of a model
- 21 that does not allow the slide to be locked back, pull the slide back
- 22 and physically check the chamber to ensure that the chamber is
- 23 clear. If no readily identifiable dummy round is available, an
- 24 empty cartridge casing with an empty primer pocket may be
- 25 used.
- 26 (XI) Apply the safety, if applicable.
- 27 (XII) Apply the firearm safety device, if applicable. This
- 28 requirement shall not apply to an Olympic competition pistol if
- 29 no firearms safety device, other than a cable lock that the
- 30 department has determined would damage the barrel of the pistol,
- 31 has been approved for the pistol, and the pistol is either listed in
- 32 paragraph (2) of subdivision (h) of Section 12132 or is subject to
- 33 paragraph (3) of subdivision (h) of Section 12132.
- 34 (ii) If the handgun is a double-action revolver:
- 35 (I) Open the cylinder.
- 36 (II) Visually and physically inspect each chamber, to ensure
- 37 that the revolver is unloaded.
- 38 (III) Remove the firearm safety device. If the firearm safety
- 39 device prevents any of the previous steps, remove the firearm
- 40 safety device during the appropriate step.



1 (IV) While maintaining muzzle awareness and trigger  
2 discipline, load one bright orange, red, or other readily  
3 identifiable dummy round into a chamber of the cylinder and  
4 rotate the cylinder so that the round is in the next-to-fire position.  
5 If no readily identifiable dummy round is available, an empty  
6 cartridge casing with an empty primer pocket may be used.

7 (V) Close the cylinder.

8 (VI) Open the cylinder and eject the round.

9 (VII) Visually and physically inspect each chamber to ensure  
10 that the revolver is unloaded.

11 (VIII) Apply the firearm safety device, if applicable. This  
12 requirement shall not apply to an Olympic competition pistol if  
13 no firearms safety device, other than a cable lock that the  
14 department has determined would damage the barrel of the pistol,  
15 has been approved for the pistol, and the pistol is either listed in  
16 paragraph (2) of subdivision (h) of Section 12132 or is subject to  
17 paragraph (3) of subdivision (h) of Section 12132.

18 (iii) If the handgun is a single-action revolver:

19 (I) Open the loading gate.

20 (II) Visually and physically inspect each chamber, to ensure  
21 that the revolver is unloaded.

22 (III) Remove the firearm safety device required to be sold with  
23 the handgun. If the firearm safety device prevents any of the  
24 previous steps, remove the firearm safety device during the  
25 appropriate step.

26 (IV) Load one bright orange, red, or other readily identifiable  
27 dummy round into a chamber of the cylinder, close the loading  
28 gate and rotate the cylinder so that the round is in the next-to-fire  
29 position. If no readily identifiable dummy round is available, an  
30 empty cartridge casing with an empty primer pocket may be  
31 used.

32 (V) Open the loading gate and unload the revolver.

33 (VI) Visually and physically inspect each chamber to ensure  
34 that the revolver is unloaded.

35 (VII) Apply the firearm safety device, if applicable. This  
36 requirement shall not apply to an Olympic competition pistol if  
37 no firearms safety device, other than a cable lock that the  
38 department has determined would damage the barrel of the pistol,  
39 has been approved for the pistol, and the pistol is either listed in

1 paragraph (2) of subdivision (h) of Section 12132 or is subject to  
2 paragraph (3) of subdivision (h) of Section 12132.

3 (E) The recipient shall receive instruction regarding how to  
4 render that handgun safe in the event of a jam.

5 (F) The firearms dealer shall sign and date an affidavit stating  
6 that the requirements of subparagraph (D) have been met. The  
7 firearms dealer shall additionally obtain the signature of the  
8 handgun purchaser on the same affidavit. The firearms dealer  
9 shall retain the original affidavit as proof of compliance with this  
10 requirement.

11 (G) The recipient shall perform the safe handling  
12 demonstration for a department certified instructor.

13 (H) No demonstration shall be required if the dealer is  
14 returning the handgun to the owner of the handgun.

15 (I) Department certified instructors who may administer the  
16 safe handling demonstration shall meet the requirements set forth  
17 in subdivision (j) of Section 12804.

18 (J) The persons who are exempt from the requirements of  
19 subdivision (b) of Section 12801, pursuant to Section 12807, are  
20 also exempt from performing the safe handling demonstration.

21 (9) Commencing July 1, 1992, the licensee shall offer to  
22 provide the purchaser or transferee of a firearm, or person being  
23 loaned a firearm, with a copy of the pamphlet described in  
24 Section 12080 and may add the cost of the pamphlet, if any, to  
25 the sales price of the firearm.

26 (10) The licensee shall not commit an act of collusion as  
27 defined in Section 12072.

28 (11) The licensee shall post conspicuously within the licensed  
29 premises a detailed list of each of the following:

30 (A) All charges required by governmental agencies for  
31 processing firearm transfers required by Sections 12076, 12082,  
32 and 12806.

33 (B) All fees that the licensee charges pursuant to Sections  
34 12082 and 12806.

35 (12) The licensee shall not misstate the amount of fees charged  
36 by a governmental agency pursuant to Sections 12076, 12082,  
37 and 12806.

38 (13) Except as provided in subparagraphs (B) and (C) of  
39 paragraph (1) of subdivision (b), all firearms that are in the  
40 inventory of the licensee shall be kept within the licensed

1 location. The licensee shall report the loss or theft of any firearm  
2 that is merchandise of the licensee, any firearm that the licensee  
3 takes possession of pursuant to Section 12082, or any firearm  
4 kept at the licensee's place of business within 48 hours of  
5 discovery to the appropriate law enforcement agency in the city,  
6 county, or city and county where the licensee's business premises  
7 are located.

8 (14) Except as provided in subparagraphs (B) and (C) of  
9 paragraph (1) of subdivision (b), any time when the licensee is  
10 not open for business, inventory all firearms shall be stored in the  
11 licensed location. All firearms shall be secured using one of the  
12 following methods as to each particular firearm:

13 (A) Store the firearm in a secure facility that is a part of, or  
14 that constitutes, the licensee's business premises.

15 (B) Secure the firearm with a hardened steel rod or cable of at  
16 least one-eighth inch in diameter through the trigger guard of the  
17 firearm. The steel rod or cable shall be secured with a hardened  
18 steel lock that has a shackle. The lock and shackle shall be  
19 protected or shielded from the use of a bolt cutter and the rod or  
20 cable shall be anchored in a manner that prevents the removal of  
21 the firearm from the premises.

22 (C) Store the firearm in a locked fireproof safe or vault in the  
23 licensee's business premises.

24 (15) The licensing authority in an unincorporated area of a  
25 county or within a city may impose security requirements that are  
26 more strict or are at a higher standard than those specified in  
27 paragraph (14).

28 (16) Commencing January 1, 1994, the licensee shall, upon the  
29 issuance or renewal of a license, submit a copy of the same to the  
30 Department of Justice.

31 (17) The licensee shall maintain and make available for  
32 inspection during business hours to any peace officer, authorized  
33 local law enforcement employee, or Department of Justice  
34 employee designated by the Attorney General, upon the  
35 presentation of proper identification, a firearms transaction  
36 record.

37 (18) (A) On the date of receipt, the licensee shall report to the  
38 Department of Justice in a format prescribed by the department  
39 the acquisition by the licensee of the ownership of a pistol,

1 revolver, or other firearm capable of being concealed upon the  
2 person.

3 (B) The provisions of this paragraph shall not apply to any of  
4 the following transactions:

5 (i) A transaction subject to the provisions of subdivision (n) of  
6 Section 12078.

7 (ii) The dealer acquired the firearm from a wholesaler.

8 (iii) The dealer is also licensed as a secondhand dealer  
9 pursuant to Article 4 (commencing with Section 21625) of  
10 Chapter 9 of Division 8 of the Business and Professions Code.

11 (iv) The dealer acquired the firearm from a person who is  
12 licensed as a manufacturer or importer to engage in those  
13 activities pursuant to Chapter 44 (commencing with Section 921)  
14 of Title 18 of the United States Code and any regulations issued  
15 pursuant thereto.

16 (v) The dealer acquired the firearm from a person who resides  
17 outside this state who is licensed pursuant to Chapter 44  
18 (commencing with Section 921) of Title 18 of the United States  
19 Code and any regulations issued pursuant thereto.

20 (19) The licensee shall forward in a format prescribed by the  
21 Department of Justice, information as required by the department  
22 on any firearm that is not delivered within the time period set  
23 forth in Section 478.102 (c) of Title 27 of the Code of Federal  
24 Regulations.

25 (20) (A) Firearms dealers may require any agent who handles,  
26 sells, or delivers firearms to obtain and provide to the dealer a  
27 certificate of eligibility from the department pursuant to  
28 paragraph (4) of subdivision (a). The agent or employee shall  
29 provide on the application, the name and California firearms  
30 dealer number of the firearms dealer with whom he or she is  
31 employed.

32 (B) The department shall notify the firearms dealer in the  
33 event that the agent or employee who has a certificate of  
34 eligibility is or becomes prohibited from possessing firearms.

35 (C) If the local jurisdiction requires a background check of the  
36 agents or employees of the firearms dealer, the agent or  
37 employee shall obtain a certificate of eligibility pursuant to  
38 subparagraph (A).

39 (D) Nothing in this paragraph shall be construed to preclude a  
40 local jurisdiction from conducting an additional background

1 check pursuant to Section 11105 or prohibiting employment  
2 based on criminal history that does not appear as part of  
3 obtaining a certificate of eligibility, provided however, that the  
4 local jurisdiction may not charge a fee for the additional criminal  
5 history check.

6 (E) The licensee shall prohibit any agent who the licensee  
7 knows or reasonably should know is within a class of persons  
8 prohibited from possessing firearms pursuant to Section 12021 or  
9 12021.1 of this code, or Section 8100 or 8103 of the Welfare and  
10 Institutions Code, from coming into contact with any firearm that  
11 is not secured and from accessing any key, combination, code, or  
12 other means to open any of the locking devices described in  
13 clause (ii) of subparagraph (G) of this paragraph.

14 (F) Nothing in this paragraph shall be construed as preventing  
15 a local government from enacting an ordinance imposing  
16 additional conditions on licensees with regard to agents.

17 (G) For purposes of this section, the following definitions shall  
18 apply:

19 (i) An “agent” is an employee of the licensee.

20 (ii) “Secured” means a firearm that is made inoperable in one  
21 or more of the following ways:

22 (I) The firearm is inoperable because it is secured by a  
23 firearms safety device listed on the department’s roster of  
24 approved firearms safety devices pursuant to subdivision (d) of  
25 Section 12088 of this chapter.

26 (II) The firearm is stored in a locked gun safe or long-gun safe  
27 which meets the standards for department-approved gun safes set  
28 forth in Section 12088.2.

29 (III) The firearm is stored in a distinct locked room or area in  
30 the building that is used to store firearms that can only be  
31 unlocked by a key, a combination, or similar means.

32 (IV) The firearm is secured with a hardened steel rod or cable  
33 that is at least one-eighth of an inch in diameter through the  
34 trigger guard of the firearm. The steel rod or cable shall be  
35 secured with a hardened steel lock that has a shackle. The lock  
36 and shackle shall be protected or shielded from the use of a bolt  
37 cutter and the rod or cable shall be anchored in a manner that  
38 prevents the removal of the firearm from the premises.

39 (c) (1) As used in this article, “clear evidence of his or her  
40 identity and age” means either of the following:

1 (A) A valid California driver's license.

2 (B) A valid California identification card issued by the  
3 Department of Motor Vehicles.

4 (2) As used in this section, a "secure facility" means a building  
5 that meets all of the following specifications:

6 (A) All perimeter doorways shall meet one of the following:

7 (i) A windowless steel security door equipped with both a  
8 dead bolt and a doorknob lock.

9 (ii) A windowed metal door that is equipped with both a dead  
10 bolt and a doorknob lock. If the window has an opening of five  
11 inches or more measured in any direction, the window shall be  
12 covered with steel bars of at least ½-inch diameter or metal  
13 grating of at least 9 gauge affixed to the exterior or interior of the  
14 door.

15 (iii) A metal grate that is padlocked and affixed to the  
16 licensee's premises independent of the door and doorframe.

17 (B) All windows are covered with steel bars.

18 (C) Heating, ventilating, air-conditioning, and service  
19 openings are secured with steel bars, metal grating, or an alarm  
20 system.

21 (D) Any metal grates have spaces no larger than six inches  
22 wide measured in any direction.

23 (E) Any metal screens have spaces no larger than three inches  
24 wide measured in any direction.

25 (F) All steel bars shall be no further than six inches apart.

26 (3) As used in this section, "licensed premises," "licensed  
27 place of business," "licensee's place of business," or "licensee's  
28 business premises" means the building designated in the license.

29 (4) For purposes of paragraph (17) of subdivision (b):

30 (A) A "firearms transaction record" is a record containing the  
31 same information referred to in subdivision (a) of Section  
32 478.124, Section 478.124a, and subdivision (e) of Section  
33 478.125 of Title 27 of the Code of Federal Regulations.

34 (B) A licensee shall be in compliance with the provisions of  
35 paragraph (17) of subdivision (b) if he or she maintains and  
36 makes available for inspection during business hours to any  
37 peace officer, authorized local law enforcement employee, or  
38 Department of Justice employee designated by the Attorney  
39 General, upon the presentation of proper identification, the bound  
40 book containing the same information referred to in Section

1 478.124a and subdivision (e) of Section 478.125 of Title 27 of  
2 the Code of Federal Regulations and the records referred to in  
3 subdivision (a) of Section 478.124 of Title 27 of the Code of  
4 Federal Regulations.

5 (d) Upon written request from a licensee, the licensing  
6 authority may grant an exemption from compliance with the  
7 requirements of paragraph (14) of subdivision (b) if the licensee  
8 is unable to comply with those requirements because of local  
9 ordinances, covenants, lease conditions, or similar circumstances  
10 not under the control of the licensee.

11 (e) (1) Except as otherwise provided in this paragraph, the  
12 Department of Justice shall keep a centralized list of all persons  
13 licensed pursuant to subparagraphs (A) to (E), inclusive, of  
14 paragraph (1) of subdivision (a). The department may remove  
15 from this list any person who knowingly or with gross negligence  
16 violates this article. Upon removal of a dealer from this list,  
17 notification shall be provided to local law enforcement and  
18 licensing authorities in the jurisdiction where the dealer's  
19 business is located.

20 (2) The department shall remove from the centralized list any  
21 person whose federal firearms license has expired or has been  
22 revoked.

23 (3) Information compiled from the list shall be made available,  
24 upon request, for the following purposes only:

25 (A) For law enforcement purposes.

26 (B) When the information is requested by a person licensed  
27 pursuant to Chapter 44 (commencing with Section 921) of Title  
28 18 of the United States Code for determining the validity of the  
29 license for firearm shipments.

30 (C) When information is requested by a person promoting,  
31 sponsoring, operating, or otherwise organizing a show or event as  
32 defined in Section 478.100 of Title 27 of the Code of Federal  
33 Regulations, or its successor, who possesses a valid certificate of  
34 eligibility issued pursuant to Section 12071.1, if that information  
35 is requested by the person to determine the eligibility of a  
36 prospective participant in a gun show or event to conduct  
37 transactions as a firearms dealer pursuant to subparagraph (B) of  
38 paragraph (1) of subdivision (b).

(4) Information provided pursuant to paragraph (3) shall be limited to information necessary to corroborate an individual's current license status as being one of the following:

(A) A person licensed pursuant to subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a).

(B) A person licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and who is not subject to the requirement that he or she be licensed pursuant to subparagraphs (A) to (E), inclusive, of paragraph (1) of subdivision (a).

(f) The Department of Justice may inspect dealers to ensure compliance with this article. The department may assess an annual fee, not to exceed one hundred fifteen dollars (\$115), to cover the reasonable cost of maintaining the list described in subdivision (e), including the cost of inspections. Dealers whose place of business is in a jurisdiction that has adopted an inspection program to ensure compliance with firearms law shall be exempt from that portion of the department's fee that relates to the cost of inspections. The applicant is responsible for providing evidence to the department that the jurisdiction in which the business is located has the inspection program.

(g) The Department of Justice shall maintain and make available upon request information concerning the number of inspections conducted and the amount of fees collected pursuant to subdivision (f), a listing of exempted jurisdictions, as defined in subdivision (f), the number of dealers removed from the centralized list defined in subdivision (e), and the number of dealers found to have violated this article with knowledge or gross negligence.

(h) Paragraph (14) or (15) of subdivision (b) shall not apply to a licensee organized as a nonprofit public benefit or mutual benefit corporation organized pursuant to Part 2 (commencing with Section 5110) or Part 3 (commencing with Section 7110) of Division 2 of the Corporations Code, if both of the following conditions are satisfied:

(1) The nonprofit public benefit or mutual benefit corporation obtained the dealer's license solely and exclusively to assist that corporation or local chapters of that corporation in conducting auctions or similar events at which firearms are auctioned off to



1 fund the activities of that corporation or the local chapters of the  
2 corporation.

3 (2) The firearms are not pistols, revolvers, or other firearms  
4 capable of being concealed upon the person.

5 SEC. 10. Section 12072 of the Penal Code is amended to  
6 read:

7 12072. (a) (1) No person, corporation, or firm shall  
8 knowingly supply, deliver, sell, or give possession or control of a  
9 firearm to any person within any of the classes prohibited by  
10 Section 12021 or 12021.1.

11 (2) No person, corporation, or dealer shall sell, supply, deliver,  
12 or give possession or control of a firearm to any person whom he  
13 or she has cause to believe to be within any of the classes  
14 prohibited by Section 12021 or 12021.1 of this code or Section  
15 8100 or 8103 of the Welfare and Institutions Code.

16 (3) (A) No person, corporation, or firm shall sell, loan, or  
17 transfer a firearm to a minor, nor sell a handgun to an individual  
18 under 21 years of age.

19 (B) Subparagraph (A) shall not apply to or affect those  
20 circumstances set forth in subdivision (p) of Section 12078.

21 (4) No person, corporation, or dealer shall sell, loan, or  
22 transfer a firearm to any person whom he or she knows or has  
23 cause to believe is not the actual purchaser or transferee of the  
24 firearm, or to any person who is not the person actually being  
25 loaned the firearm, if the person, corporation, or dealer has either  
26 of the following:

27 (A) Knowledge that the firearm is to be subsequently loaned,  
28 sold, or transferred to avoid the provisions of subdivision (c) or  
29 (d).

30 (B) Knowledge that the firearm is to be subsequently loaned,  
31 sold, or transferred to avoid the requirements of any exemption to  
32 the provisions of subdivision (c) or (d).

33 (5) No person, corporation, or dealer shall acquire a firearm  
34 for the purpose of selling, transferring, or loaning the firearm, if  
35 the person, corporation, or dealer has either of the following:

36 (A) In the case of a dealer, intent to violate subdivision (b) or  
37 (c).

38 (B) In any other case, intent to avoid either of the following:

39 (i) The provisions of subdivision (d).

1 (ii) The requirements of any exemption to the provisions of  
2 subdivision (d).

3 (6) The dealer shall comply with the provisions of paragraph  
4 (18) of subdivision (b) of Section 12071.

5 (7) The dealer shall comply with the provisions of paragraph  
6 (19) of subdivision (b) of Section 12071.

7 (8) No person shall sell or otherwise transfer his or her  
8 ownership in a pistol, revolver, or other firearm capable of being  
9 concealed upon the person unless the firearm bears either:

10 (A) The name of the manufacturer, the manufacturer's make  
11 or model, and a manufacturer's serial number assigned to that  
12 firearm.

13 (B) The identification number or mark assigned to the firearm  
14 by the Department of Justice pursuant to Section 12092.

15 (9) (A) No person shall make an application to purchase more  
16 than one pistol, revolver, or other firearm capable of being  
17 concealed upon the person within any 30-day period.

18 (B) Subparagraph (A) shall not apply to any of the following:

19 (i) Any law enforcement agency.

20 (ii) Any agency duly authorized to perform law enforcement  
21 duties.

22 (iii) Any state or local correctional facility.

23 (iv) Any private security company licensed to do business in  
24 California.

25 (v) Any person who is properly identified as a full-time paid  
26 peace officer, as defined in Chapter 4.5 (commencing with  
27 Section 830) of Title 3 of Part 2, and who is authorized to, and  
28 does carry a firearm during the course and scope of his or her  
29 employment as a peace officer.

30 (vi) Any motion picture, television, or video production  
31 company or entertainment or theatrical company whose  
32 production by its nature involves the use of a firearm.

33 (vii) Any person who may, pursuant to Section 12078, claim  
34 an exemption from the waiting period set forth in subdivision (c)  
35 of this section.

36 (viii) Any transaction conducted through a licensed firearms  
37 dealer pursuant to Section 12082.

38 (ix) Any person who is licensed as a collector pursuant to  
39 Chapter 44 (commencing with Section 921) of Title 18 of the  
40 United States Code and the regulations issued pursuant thereto

1 and who has a current certificate of eligibility issued to him or  
2 her by the Department of Justice pursuant to Section 12071.

3 (x) The exchange of a pistol, revolver, or other firearm capable  
4 of being concealed upon the person where the dealer purchased  
5 that firearm from the person seeking the exchange within the  
6 30-day period immediately preceding the date of exchange or  
7 replacement.

8 (xi) The replacement of a pistol, revolver, or other firearm  
9 capable of being concealed upon the person when the person's  
10 pistol, revolver, or other firearm capable of being concealed upon  
11 the person was lost or stolen, and the person reported that firearm  
12 lost or stolen prior to the completion of the application to  
13 purchase to any local law enforcement agency of the city, county,  
14 or city and county in which he or she resides.

15 (xii) The return of any pistol, revolver, or other firearm  
16 capable of being concealed upon the person to its owner.

17 (b) No person licensed under Section 12071 shall supply, sell,  
18 deliver, or give possession or control of a pistol, revolver, or  
19 firearm capable of being concealed upon the person to any  
20 person under the age of 21 years or any other firearm to a person  
21 under the age of 18 years.

22 (c) No dealer, whether or not acting pursuant to Section  
23 12082, shall deliver a firearm to a person, as follows:

24 (1) Within 10 days of the application to purchase, or, after  
25 notice by the department pursuant to subdivision (d) of Section  
26 12076, within 10 days of the submission to the department of any  
27 correction to the application, or within 10 days of the submission  
28 to the department of any fee required pursuant to subdivision (e)  
29 of Section 12076, whichever is later.

30 (2) Unless unloaded and securely wrapped or unloaded and in  
31 a locked container.

32 (3) Unless the purchaser, transferee, or person being loaned  
33 the firearm presents clear evidence of his or her identity and age,  
34 as defined in Section 12071, to the dealer.

35 (4) Whenever the dealer is notified by the Department of  
36 Justice that the person is in a prohibited class described in  
37 Section 12021 or 12021.1 of this code or Section 8100 or 8103 of  
38 the Welfare and Institutions Code.

39 (5) (A) Commencing April 1, 1994, and until January 1, 2003,  
40 no pistol, revolver, or other firearm capable of being concealed

1 upon the person shall be delivered unless the purchaser,  
2 transferee, or person being loaned the firearm presents to the  
3 dealer a basic firearms safety certificate.

4 (B) Commencing January 1, 2003, no handgun shall be  
5 delivered unless the purchaser, transferee, or person being loaned  
6 the handgun presents a handgun safety certificate to the dealer.

7 (6) No pistol, revolver, or other firearm capable of being  
8 concealed upon the person shall be delivered whenever the dealer  
9 is notified by the Department of Justice that within the preceding  
10 30-day period the purchaser has made another application to  
11 purchase a pistol, revolver, or other firearm capable of being  
12 concealed upon the person and that the previous application to  
13 purchase involved none of the entities specified in subparagraph  
14 (B) of paragraph (9) of subdivision (a).

15 (d) Where neither party to the transaction holds a dealer's  
16 license issued pursuant to Section 12071, the parties to the  
17 transaction shall complete the sale, loan, or transfer of that  
18 firearm through a licensed firearms dealer pursuant to Section  
19 12082.

20 (e) No person may commit an act of collusion relating to  
21 Article 8 (commencing with Section 12800) of Chapter 6. For  
22 purposes of this section and Section 12071, collusion may be  
23 proven by any one of the following factors:

24 (1) Answering a test applicant's questions during an objective  
25 test relating to firearms safety.

26 (2) Knowingly grading the examination falsely.

27 (3) Providing an advance copy of the test to an applicant.

28 (4) Taking or allowing another person to take the basic  
29 firearms safety course for one who is the applicant for a basic  
30 firearms safety certificate or a handgun safety certificate.

31 (5) Allowing another to take the objective test for the  
32 applicant, purchaser, or transferee.

33 (6) Using or allowing another to use one's identification, proof  
34 of residency, or thumbprint.

35 (7) Allowing others to give unauthorized assistance during the  
36 examination.

37 (8) Reference to unauthorized materials during the  
38 examination and cheating by the applicant.

1 (9) Providing originals or photocopies of the objective test, or  
2 any version thereof, to any person other than as authorized by the  
3 department.

4 (f) (1) No person who is licensed pursuant to Chapter 44  
5 (commencing with Section 921) of Title 18 of the United States  
6 Code shall deliver, sell, or transfer a firearm to a person who is  
7 licensed pursuant to Chapter 44 (commencing with Section 921)  
8 of Title 18 of the United States Code and whose licensed  
9 premises are located in this state unless:

10 (A) Prior to January 1, 2005, the intended recipient does one  
11 of the following:

12 (i) Presents proof of licensure pursuant to Section 12071 to  
13 that person.

14 (ii) Presents proof that he or she is exempt from licensure  
15 under Section 12071 to that person, in which case the person also  
16 shall present proof that the transaction is also exempt from the  
17 provisions of subdivision (d).

18 (B) Commencing January 1, 2005, one of the following is  
19 satisfied:

20 (i) The person intending to deliver, sell, or transfer the  
21 firearms obtains from the department, prior to delivery, a unique  
22 verification number pursuant to Section 12071. The person  
23 intending to deliver, sell, or transfer firearms shall provide the  
24 unique verification number to the recipient along with the  
25 firearms upon delivery, in a manner to be determined by the  
26 department.

27 (ii) The intended recipient presents proof that he or she is  
28 exempt from licensure under Section 12071 to that person, in  
29 which case the person also shall present proof that the transaction  
30 is also exempt from the provisions of subdivision (d).

31 (2) (A) On or after January 1, 1998, within 60 days of  
32 bringing a pistol, revolver, or other firearm capable of being  
33 concealed upon the person into this state, a personal handgun  
34 importer shall do one of the following:

35 (i) Forward by prepaid mail or deliver in person to the  
36 Department of Justice, a report prescribed by the department  
37 including information concerning that individual and a  
38 description of the firearm in question.

1 (ii) Sell or transfer the firearm in accordance with the  
2 provisions of subdivision (d) or in accordance with the provisions  
3 of an exemption from subdivision (d).

4 (iii) Sell or transfer the firearm to a dealer licensed pursuant to  
5 Section 12071.

6 (iv) Sell or transfer the firearm to a sheriff or police  
7 department.

8 (B) If the personal handgun importer sells or transfers the  
9 pistol, revolver, or other firearm capable of being concealed upon  
10 the person pursuant to subdivision (d) of Section 12072 and the  
11 sale or transfer cannot be completed by the dealer to the  
12 purchaser or transferee, and the firearm can be returned to the  
13 personal handgun importer, the personal handgun importer shall  
14 have complied with the provisions of this paragraph.

15 (C) The provisions of this paragraph are cumulative and shall  
16 not be construed as restricting the application of any other law.  
17 However, an act or omission punishable in different ways by this  
18 section and different provisions of the Penal Code shall not be  
19 punished under more than one provision.

20 (D) (i) On and after January 1, 1998, the department shall  
21 conduct a public education and notification program regarding  
22 this paragraph to ensure a high degree of publicity of the  
23 provisions of this paragraph.

24 (ii) As part of the public education and notification program  
25 described in this subparagraph, the department shall do all of the  
26 following:

27 (I) Work in conjunction with the Department of Motor  
28 Vehicles to ensure that any person who is subject to this  
29 paragraph is advised of the provisions of this paragraph, and  
30 provided with blank copies of the report described in clause (i) of  
31 subparagraph (A) at the time that person applies for a California  
32 driver's license or registers his or her motor vehicle in  
33 accordance with the Vehicle Code.

34 (II) Make the reports referred to in clause (i) of subparagraph  
35 (A) available to dealers licensed pursuant to Section 12071.

36 (III) Make the reports referred to in clause (i) of subparagraph  
37 (A) available to law enforcement agencies.

38 (IV) Make persons subject to the provisions of this paragraph  
39 aware of the fact that reports referred to in clause (i) of  
40 subparagraph (A) may be completed at either the licensed

premises of dealers licensed pursuant to Section 12071 or at law enforcement agencies, that it is advisable to do so for the sake of accuracy and completeness of the reports, that prior to transporting a pistol, revolver, or other firearm capable of being concealed upon the person to a law enforcement agency in order to comply with subparagraph (A), the person should give prior notice to the law enforcement agency that he or she is doing so, and that in any event, the pistol, revolver, or other firearm capable of being concealed upon the person should be transported unloaded and in a locked container.

(iii) Any costs incurred by the department to implement this paragraph shall be absorbed by the department within its existing budget and the fees in the Dealers' Record of Sale Special Account allocated for implementation of this subparagraph pursuant to Section 12076.

(3) Where a person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, whose licensed premises are within this state, acquires a pistol, revolver, or other firearm capable of being concealed upon the person that is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, outside of this state, takes actual possession of that firearm outside of this state pursuant to the provisions of subsection (j) of Section 923 of Title 18 of the United States Code, as amended by Public Law 104-208, and transports that firearm into this state, within five days of that licensed collector transporting that firearm into this state, he or she shall report to the department in a format prescribed by the department his or her acquisition of that firearm.

(4) (A) It is the intent of the Legislature that a violation of paragraph (2) or (3) shall not constitute a "continuing offense" and the statute of limitations for commencing a prosecution for a violation of paragraph (2) or (3) commences on the date that the applicable grace period specified in paragraph (2) or (3) expires.

(B) Paragraphs (2) and (3) shall not apply to a person who reports his or her ownership of a pistol, revolver, or other firearm capable of being concealed upon the person after the applicable grace period specified in paragraph (2) or (3) expires if evidence

1 of that violation arises only as the result of the person submitting  
2 the report described in paragraph (2) or (3).

3 (g) (1) Except as provided in paragraph (2), (3), or (5), a  
4 violation of this section is a misdemeanor.

5 (2) If any of the following circumstances apply, a violation of  
6 this section is punishable by imprisonment in the state prison for  
7 two, three, or four years.

8 (A) If the violation is of paragraph (1) of subdivision (a).

9 (B) If the defendant has a prior conviction of violating the  
10 provisions, other than paragraph (9) of subdivision (a), of this  
11 section or former Section 12100 of this code or Section 8101 of  
12 the Welfare and Institutions Code.

13 (C) If the defendant has a prior conviction of violating any  
14 offense specified in subdivision (b) of Section 12021.1 or of a  
15 violation of Section 12020, 12220, or 12520, or of former  
16 Section 12560.

17 (D) If the defendant is in a prohibited class described in  
18 Section 12021 or 12021.1 of this code or Section 8100 or 8103 of  
19 the Welfare and Institutions Code.

20 (E) A violation of this section by a person who actively  
21 participates in a “criminal street gang” as defined in Section  
22 186.22.

23 (F) A violation of subdivision (b) involving the delivery of any  
24 firearm to a person who the dealer knows, or should know, is a  
25 minor.

26 (3) If any of the following circumstances apply, a violation of  
27 this section shall be punished by imprisonment in a county jail  
28 not exceeding one year or in the state prison, or by a fine not to  
29 exceed one thousand dollars (\$1,000), or by both that fine and  
30 imprisonment.

31 (A) A violation of paragraph (2), (4), or (5) of subdivision (a).

32 (B) A violation of paragraph (3) of subdivision (a) involving  
33 the sale, loan, or transfer of a pistol, revolver, or other firearm  
34 capable of being concealed upon the person to a minor.

35 (C) A violation of subdivision (b) involving the delivery of a  
36 pistol, revolver, or other firearm capable of being concealed upon  
37 the person.

38 (D) A violation of paragraph (1), (3), (4), (5), or (6) of  
39 subdivision (c) involving a pistol, revolver, or other firearm  
40 capable of being concealed upon the person.



1 (E) A violation of subdivision (d) involving a pistol, revolver,  
2 or other firearm capable of being concealed upon the person.

3 (F) A violation of subdivision (e).

4 (4) If both of the following circumstances apply, an additional  
5 term of imprisonment in the state prison for one, two, or three  
6 years shall be imposed in addition and consecutive to the  
7 sentence prescribed.

8 (A) A violation of paragraph (2) of subdivision (a) or  
9 subdivision (b).

10 (B) The firearm transferred in violation of paragraph (2) of  
11 subdivision (a) or subdivision (b) is used in the subsequent  
12 commission of a felony for which a conviction is obtained and  
13 the prescribed sentence is imposed.

14 (5) (A) A first violation of paragraph (9) of subdivision (a) is  
15 an infraction punishable by a fine of fifty dollars (\$50).

16 (B) A second violation of paragraph (9) of subdivision (a) is  
17 an infraction punishable by a fine of one hundred dollars (\$100).

18 (C) A third or subsequent violation of paragraph (9) of  
19 subdivision (a) is a misdemeanor.

20 (D) For purposes of this paragraph each application to  
21 purchase a pistol, revolver, or other firearm capable of being  
22 concealed upon the person in violation of paragraph (9) of  
23 subdivision (a) shall be deemed a separate offense.

24 SEC. 10.5. Section 12072 of the Penal Code is amended to  
25 read:

26 12072. (a) (1) No person, corporation, or firm shall  
27 knowingly supply, deliver, sell, or give possession or control of a  
28 firearm to any person within any of the classes prohibited by  
29 Section 12021 or 12021.1.

30 (2) No person, corporation, or dealer shall sell, supply, deliver,  
31 or give possession or control of a firearm to any person whom he  
32 or she has cause to believe to be within any of the classes  
33 prohibited by Section 12021 or 12021.1 of this code or Section  
34 8100 or 8103 of the Welfare and Institutions Code.

35 (3) (A) No person, corporation, or firm shall sell, loan, or  
36 transfer a firearm to a minor, nor sell a handgun to an individual  
37 under 21 years of age.

38 (B) Subparagraph (A) shall not apply to or affect those  
39 circumstances set forth in subdivision (p) of Section 12078.

1 (4) No person, corporation, or dealer shall sell, loan, or  
2 transfer a firearm to any person whom he or she knows or has  
3 cause to believe is not the actual purchaser or transferee of the  
4 firearm, or to any person who is not the person actually being  
5 loaned the firearm, if the person, corporation, or dealer has either  
6 of the following:

7 (A) Knowledge that the firearm is to be subsequently loaned,  
8 sold, or transferred to avoid the provisions of subdivision (c) or  
9 (d).

10 (B) Knowledge that the firearm is to be subsequently loaned,  
11 sold, or transferred to avoid the requirements of any exemption to  
12 the provisions of subdivision (c) or (d).

13 (5) No person, corporation, or dealer shall acquire a firearm  
14 for the purpose of selling, transferring, or loaning the firearm, if  
15 the person, corporation, or dealer has either of the following:

16 (A) In the case of a dealer, intent to violate subdivision (b) or  
17 (c).

18 (B) In any other case, intent to avoid either of the following:

19 (i) The provisions of subdivision (d).

20 (ii) The requirements of any exemption to the provisions of  
21 subdivision (d).

22 (6) The dealer shall comply with the provisions of paragraph  
23 (18) of subdivision (b) of Section 12071.

24 (7) The dealer shall comply with the provisions of paragraph  
25 (19) of subdivision (b) of Section 12071.

26 (8) No person shall sell or otherwise transfer his or her  
27 ownership in a pistol, revolver, or other firearm capable of being  
28 concealed upon the person unless the firearm bears either:

29 (A) The name of the manufacturer, the manufacturer's make  
30 or model, and a manufacturer's serial number assigned to that  
31 firearm.

32 (B) The identification number or mark assigned to the firearm  
33 by the Department of Justice pursuant to Section 12092.

34 (9) (A) No person shall make an application to purchase more  
35 than one pistol, revolver, or other firearm capable of being  
36 concealed upon the person within any 30-day period.

37 (B) Subparagraph (A) shall not apply to any of the following:

38 (i) Any law enforcement agency.

39 (ii) Any agency duly authorized to perform law enforcement  
40 duties.

1 (iii) Any state or local correctional facility.

2 (iv) Any private security company licensed to do business in  
3 California.

4 (v) Any person who is properly identified as a full-time paid  
5 peace officer, as defined in Chapter 4.5 (commencing with  
6 Section 830) of Title 3 of Part 2, and who is authorized to, and  
7 does carry a firearm during the course and scope of his or her  
8 employment as a peace officer.

9 (vi) Any motion picture, television, or video production  
10 company or entertainment or theatrical company whose  
11 production by its nature involves the use of a firearm.

12 (vii) Any person who may, pursuant to Section 12078, claim  
13 an exemption from the waiting period set forth in subdivision (c)  
14 of this section.

15 (viii) Any transaction conducted through a licensed firearms  
16 dealer pursuant to Section 12082.

17 (ix)

18 Any person who is licensed as a collector pursuant to Chapter  
19 44 (commencing with Section 921) of Title 18 of the United  
20 States Code and the regulations issued pursuant thereto and who  
21 has a current certificate of eligibility issued to him or her by the  
22 Department of Justice pursuant to Section 12071.

23 (x) The exchange of a pistol, revolver, or other firearm capable  
24 of being concealed upon the person where the dealer purchased  
25 that firearm from the person seeking the exchange within the  
26 30-day period immediately preceding the date of exchange or  
27 replacement.

28 (xi) The replacement of a pistol, revolver, or other firearm  
29 capable of being concealed upon the person when the person's  
30 pistol, revolver, or other firearm capable of being concealed upon  
31 the person was lost or stolen, and the person reported that firearm  
32 lost or stolen prior to the completion of the application to  
33 purchase to any local law enforcement agency of the city, county,  
34 or city and county in which he or she resides.

35 (xii) The return of any pistol, revolver, or other firearm  
36 capable of being concealed upon the person to its owner.

37 (b) No person licensed under Section 12071 shall supply, sell,  
38 deliver, or give possession or control of a pistol, revolver, or  
39 firearm capable of being concealed upon the person to any

1 person under the age of 21 years or any other firearm to a person  
2 under the age of 18 years.

3 (c) No dealer, whether or not acting pursuant to Section  
4 12082, shall deliver a firearm to a person, as follows:

5 (1) Within 10 days of the application to purchase, or, after  
6 notice by the department pursuant to subdivision (d) of Section  
7 12076, within 10 days of the submission to the department of any  
8 correction to the application, or within 10 days of the submission  
9 to the department of any fee required pursuant to subdivision (e)  
10 of Section 12076, whichever is later.

11 (2) Unless unloaded and securely wrapped or unloaded and in  
12 a locked container.

13 (3) Unless the purchaser, transferee, or person being loaned  
14 the firearm presents clear evidence of his or her identity and age,  
15 as defined in Section 12071, to the dealer.

16 (4) Whenever the dealer is notified by the Department of  
17 Justice that the person is in a prohibited class described in  
18 Section 12021 or 12021.1 of this code or Section 8100 or 8103 of  
19 the Welfare and Institutions Code.

20 (5) (A) Commencing April 1, 1994, and until January 1, 2003,  
21 no pistol, revolver, or other firearm capable of being concealed  
22 upon the person shall be delivered unless the purchaser,  
23 transferee, or person being loaned the firearm presents to the  
24 dealer a basic firearms safety certificate.

25 (B) Commencing January 1, 2003, no handgun shall be  
26 delivered unless the purchaser, transferee, or person being loaned  
27 the handgun presents a handgun safety certificate to the dealer.

28 (6) No pistol, revolver, or other firearm capable of being  
29 concealed upon the person shall be delivered whenever the dealer  
30 is notified by the Department of Justice that within the preceding  
31 30-day period the purchaser has made another application to  
32 purchase a pistol, revolver, or other firearm capable of being  
33 concealed upon the person and that the previous application to  
34 purchase involved none of the entities specified in subparagraph  
35 (B) of paragraph (9) of subdivision (a).

36 (d) Where neither party to the transaction holds a dealer's  
37 license issued pursuant to Section 12071, the parties to the  
38 transaction shall complete the sale, loan, or transfer of that  
39 firearm through

40 a licensed firearms dealer pursuant to Section 12082.

1 (e) No person may commit an act of collusion relating to  
2 Article 8 (commencing with Section 12800) of Chapter 6. For  
3 purposes of this section and Section 12071, collusion may be  
4 proven by any one of the following factors:

5 (1) Answering a test applicant's questions during an objective  
6 test relating to firearms safety.

7 (2) Knowingly grading the examination falsely.

8 (3) Providing an advance copy of the test to an applicant.

9 (4) Taking or allowing another person to take the basic  
10 firearms safety course for one who is the applicant for a basic  
11 firearms safety certificate or a handgun safety certificate.

12 (5) Allowing another to take the objective test for the  
13 applicant, purchaser, or transferee.

14 (6) Using or allowing another to use one's identification, proof  
15 of residency, or thumbprint.

16 (7) Allowing others to give unauthorized assistance during the  
17 examination.

18 (8) Reference to unauthorized materials during the  
19 examination and cheating by the applicant.

20 (9) Providing originals or photocopies of the objective test, or  
21 any version thereof, to any person other than as authorized by the  
22 department.

23 (f) (1) (A) Commencing July 1, 2007, a person who is  
24 licensed pursuant to Chapter 44 (commencing with Section 921)  
25 of Title 18 of the United States Code may not deliver, sell, or  
26 transfer a firearm to a person licensed pursuant to Chapter 44  
27 (commencing with Section 921) of Title 18 of the United States  
28 Code

29 unless, prior to delivery, the person intending to deliver, sell, or  
30 transfer the firearm obtains a verification number via the Internet  
31 for the intended delivery, sale or transfer, from the department. If  
32 Internet service is unavailable to either the department or the  
33 licensee due to a technical or other malfunction, or a federal  
34 firearms licensee who is located outside of California does not  
35 possess a computer or have Internet access, alternate means of  
36 communication, including facsimile or telephone, shall be made  
37 available for a licensee to obtain a verification number in order to  
38 comply with this section. This subdivision shall not apply to the  
39 delivery, sale, or transfer of a short-barreled rifle, or  
40 short-barreled shotgun, as defined in Section 12020, or to a

1 machinegun as defined in Section 12200, or to an assault weapon  
2 as defined in Sections 12276, 12276.1, and 12276.5.

3 (B) For every identification number request received pursuant  
4 to this section, the department shall determine whether the  
5 intended recipient is on the centralized list of firearms dealers  
6 pursuant to this section, or pursuant to the centralized list of  
7 exempted federal firearms licensees pursuant to subdivision (a)  
8 of Section 12083, or the centralized list of firearms  
9 manufacturers pursuant to subdivision (f) of Section 12086.

10 (C) If the department finds that the intended recipient is on  
11 one of these lists, the department shall issue to the inquiring  
12 party, a unique identification number for the intended delivery,  
13 sale, or transfer. In addition to the unique verification number,  
14 the department may provide to the inquiring party information  
15 necessary for determining the eligibility of the intended recipient  
16 to receive the firearm. The person intending to deliver, sell, or  
17 transfer the firearm shall provide the unique verification number  
18 to the recipient along with the firearm upon delivery, in a manner  
19 to be determined by the department.

20 (D) If the department finds that the intended recipient is not on  
21 one of these lists, the department shall notify the inquiring party  
22 that the intended recipient is ineligible to receive the firearm.

23 (E) The department shall prescribe the manner in which the  
24 verification numbers may be requested via the Internet, or by  
25 alternate means of communication, such as by facsimile or  
26 telephone, including all required enrollment information and  
27 procedures.

28 (2) (A) On or after January 1, 1998, within 60 days of  
29 bringing a pistol, revolver, or other firearm capable of being  
30 concealed upon the person into this state, a personal handgun  
31 importer shall do one of the following:

32 (i) Forward by prepaid mail or deliver in person to the  
33 Department of Justice, a report prescribed by the department  
34 including information concerning that individual and a  
35 description of the firearm in question.

36 (ii) Sell or transfer the firearm in accordance with the  
37 provisions of subdivision (d) or in accordance with the provisions  
38 of an exemption from subdivision (d).

39 (iii) Sell or transfer the firearm to a dealer licensed pursuant to  
40 Section 12071.

1 (iv) Sell or transfer the firearm to a sheriff or police  
2 department.

3 (B) If the personal handgun importer sells or transfers the  
4 pistol, revolver, or other firearm capable of being concealed upon  
5 the person pursuant to subdivision (d) of Section 12072 and the  
6 sale or transfer cannot be completed by the dealer to the  
7 purchaser or transferee, and the firearm can be returned to the  
8 personal handgun importer, the personal handgun importer shall  
9 have complied with the provisions of this paragraph.

10 (C) The provisions of this paragraph are cumulative and shall  
11 not be construed as restricting the application of any other law.  
12 However, an act or omission punishable in different ways by this  
13 section and different provisions of the Penal Code shall not be  
14 punished under more than one provision.

15 (D) (i) On and after January 1, 1998, the department shall  
16 conduct a public education and notification program regarding  
17 this paragraph to ensure a high degree of publicity of the  
18 provisions of this paragraph.

19 (ii) As part of the public education and notification program  
20 described in this subparagraph, the department shall do all of the  
21 following:

22 (I) Work in conjunction with the Department of Motor  
23 Vehicles to ensure that any person who is subject to this  
24 paragraph is advised of the provisions of this paragraph, and  
25 provided with blank copies of the report described in clause (i) of  
26 subparagraph (A) at the time that person applies for a California  
27 driver's license or registers his or her motor vehicle in  
28 accordance with the Vehicle Code.

29 (II) Make the reports referred to in clause (i) of subparagraph  
30 (A) available to dealers licensed pursuant to Section 12071.

31 (III) Make the reports referred to in clause (i) of subparagraph  
32 (A) available to law enforcement agencies.

33 (IV) Make persons subject to the provisions of this paragraph  
34 aware of the fact that reports referred to in clause (i) of  
35 subparagraph (A) may be completed at either the licensed  
36 premises of dealers licensed pursuant to Section 12071 or at law  
37 enforcement agencies, that it is advisable to do so for the sake of  
38 accuracy and completeness of the reports, that prior to  
39 transporting a pistol, revolver, or other firearm capable of being  
40 concealed upon the person to a law enforcement agency in order

1 to comply with subparagraph (A), the person should give prior  
2 notice to the law enforcement agency that he or she is doing so,  
3 and that in any event, the pistol, revolver, or other firearm  
4 capable of being concealed upon the person should be  
5 transported unloaded and in a locked container.

6 (iii) Any costs incurred by the department to implement this  
7 paragraph shall be absorbed by the department within its existing  
8 budget and the fees in the Dealers' Record of Sale Special  
9 Account allocated for implementation of this subparagraph  
10 pursuant to Section 12076.

11 (3) Where a person who is licensed as a collector pursuant to  
12 Chapter 44 (commencing with Section 921) of Title 18 of the  
13 United States Code and the regulations issued pursuant thereto,  
14 whose licensed premises are within this state, acquires a pistol,  
15 revolver, or other firearm capable of being concealed upon the  
16 person that is a curio or relic, as defined in Section 478.11 of  
17 Title 27 of the Code of Federal Regulations, outside of this state,  
18 takes actual possession of that firearm outside of this state  
19 pursuant to the provisions of subsection (j) of Section 923 of  
20 Title 18 of the United States Code, as amended by Public Law  
21 104-208, and transports that firearm into this state, within five  
22 days of that licensed collector transporting that firearm into this  
23 state, he or she shall report to the department in a format  
24 prescribed by the department his or her acquisition of that  
25 firearm.

26 (4) (A) It is the intent of the Legislature that a violation of  
27 paragraph (2) or (3) shall not constitute a "continuing offense"  
28 and the statute of limitations for commencing a prosecution for a  
29 violation of paragraph (2) or (3) commences on the date that the  
30 applicable grace period specified in paragraph (2) or (3) expires.

31 (B) Paragraphs (2) and (3) shall not apply to a person who  
32 reports his or her ownership of a pistol, revolver, or other firearm  
33 capable of being concealed upon the person after the applicable  
34 grace period specified in paragraph (2) or (3) expires if evidence  
35 of that violation arises only as the result of the person submitting  
36 the report described in paragraph (2) or (3).

37 (g) (1) Except as provided in paragraph (2), (3), or (5), a  
38 violation of this section is a misdemeanor.



(2) If any of the following circumstances apply, a violation of this section is punishable by imprisonment in the state prison for two, three, or four years.

(A) If the violation is of paragraph (1) of subdivision (a).

(B) If the defendant has a prior conviction of violating the provisions, other than paragraph (9) of subdivision (a), of this section or former Section 12100 of this code or Section 8101 of the Welfare and Institutions Code.

(C) If the defendant has a prior conviction of violating any offense specified in subdivision (b) of Section 12021.1 or of a violation of Section 12020, 12220, or 12520, or of former Section 12560.

(D) If the defendant is in a prohibited class described in Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(E) A violation of this section by a person who actively participates in a “criminal street gang” as defined in Section 186.22.

(F) A violation of subdivision (b) involving the delivery of any firearm to a person who the dealer knows, or should know, is a minor.

(3) If any of the following circumstances apply, a violation of this section shall be punished by imprisonment in a county jail not exceeding one year or in the state prison, or by a fine not to exceed one thousand dollars (\$1,000), or by both that fine and imprisonment.

(A) A violation of paragraph (2), (4), or (5) of subdivision (a).

(B) A violation of paragraph (3) of subdivision (a) involving the sale, loan, or transfer of a pistol, revolver, or other firearm capable of being concealed upon the person to a minor.

(C) A violation of subdivision (b) involving the delivery of a pistol, revolver, or other firearm capable of being concealed upon the person.

(D) A violation of paragraph (1), (3), (4), (5), or (6) of subdivision (c) involving a pistol, revolver, or other firearm capable of being concealed upon the person.

(E) A violation of subdivision (d) involving a pistol, revolver, or other firearm capable of being concealed upon the person.

(F) A violation of subdivision (e).

(4) If both of the following circumstances apply, an additional term of imprisonment in the state prison for one, two, or three years shall be imposed in addition and consecutive to the sentence prescribed.

(A) A violation of paragraph (2) of subdivision (a) or subdivision (b).

(B) The firearm transferred in violation of paragraph (2) of subdivision (a) or subdivision (b) is used in the subsequent commission of a felony for which a conviction is obtained and the prescribed sentence is imposed.

(5) (A) A first violation of paragraph (9) of subdivision (a) is an infraction punishable by a fine of fifty dollars (\$50).

(B) A second violation of paragraph (9) of subdivision (a) is an infraction punishable by a fine of one hundred dollars (\$100).

(C) A third or subsequent violation of paragraph (9) of subdivision (a) is a misdemeanor.

(D) For purposes of this paragraph each application to purchase a pistol, revolver, or other firearm capable of being concealed upon the person in violation of paragraph (9) of subdivision (a) shall be deemed a separate offense.

SEC. 11. Section 12076 of the Penal Code is amended to read:

12076. (a) (1) Before January 1, 1998, the Department of Justice shall determine the method by which a dealer shall submit firearm purchaser information to the department and the information shall be in one of the following formats:

(A) Submission of the register described in Section 12077.

(B) Electronic or telephonic transfer of the information contained in the register described in Section 12077.

(2) On or after January 1, 1998, electronic or telephonic transfer, including voice or facsimile transmission, shall be the exclusive means by which purchaser information is transmitted to the department.

(3) On or after January 1, 2003, except as permitted by the department, electronic transfer shall be the exclusive means by which information is transmitted to the department. Telephonic transfer shall not be permitted for information regarding sales of any firearms.

(b) (1) Where the register is used, the purchaser of any firearm shall be required to present clear evidence of his or her

1 identity and age, as defined in Section 12071, to the dealer, and  
2 the dealer shall require him or her to sign his or her current legal  
3 name and affix his or her residence address and date of birth to  
4 the register in quadruplicate. The salesperson shall affix his or  
5 her signature to the register in quadruplicate as a witness to the  
6 signature and identification of the purchaser. Any person  
7 furnishing a fictitious name or address or knowingly furnishing  
8 any incorrect information or knowingly omitting any information  
9 required to be provided for the register and any person violating  
10 any provision of this section is guilty of a misdemeanor.

11 (2) The original of the register shall be retained by the dealer  
12 in consecutive order. Each book of 50 originals shall become the  
13 permanent register of transactions that shall be retained for not  
14 less than three years from the date of the last transaction and  
15 shall be available for the inspection of any peace officer,  
16 Department of Justice employee designated by the Attorney  
17 General, or agent of the federal Bureau of Alcohol, Tobacco,  
18 Firearms, and Explosives upon the presentation of proper  
19 identification, but no information shall be compiled therefrom  
20 regarding the purchasers or other transferees of firearms that are  
21 not pistols, revolvers, or other firearms capable of being  
22 concealed upon the person.

23 (3) Two copies of the original sheet of the register, on the date  
24 of the application to purchase, shall be placed in the mail,  
25 postage prepaid, and properly addressed to the Department of  
26 Justice in Sacramento.

27 (4) If requested, a photocopy of the original shall be provided  
28 to the purchaser by the dealer.

29 (5) If the transaction is one conducted pursuant to Section  
30 12082, a photocopy of the original shall be provided to the seller  
31 by the dealer, upon request.

32 (c) (1) Where the electronic or telephonic transfer of applicant  
33 information is used, the purchaser shall be required to present  
34 clear evidence of his or her identity and age, as defined in  
35 Section 12071, to the dealer, and the dealer shall require him or  
36 her to sign his or her current legal name to the record of  
37 electronic or telephonic transfer. The salesperson shall affix his  
38 or her signature to the record of electronic or telephonic transfer  
39 as a witness to the signature and identification of the purchaser.  
40 Any person furnishing a fictitious name or address or knowingly

1 furnishing any incorrect information or knowingly omitting any  
2 information required to be provided for the electronic or  
3 telephonic transfer and any person violating any provision of this  
4 section is guilty of a misdemeanor.

5 (2) The record of applicant information shall be transmitted to  
6 the Department of Justice in Sacramento by electronic or  
7 telephonic transfer on the date of the application to purchase.

8 (3) The original of each record of electronic or telephonic  
9 transfer shall be retained by the dealer in consecutive order. Each  
10 original shall become the permanent record of the transaction that  
11 shall be retained for not less than three years from the date of the  
12 last transaction and shall be provided for the inspection of any  
13 peace officer, Department of Justice employee designated by the  
14 Attorney General, or agent of the federal Bureau of Alcohol,  
15 Tobacco, Firearms, and Explosives upon the presentation of  
16 proper identification, but no information shall be compiled  
17 therefrom regarding the purchasers or other transferees of  
18 firearms that are not pistols, revolvers, or other firearms capable  
19 of being concealed upon the person.

20 (4) If requested, a copy of the record of electronic or  
21 telephonic transfer shall be provided to the purchaser by the  
22 dealer.

23 (5) If the transaction is one conducted pursuant to Section  
24 12082, a copy shall be provided to the seller by the dealer, upon  
25 request.

26 (d) (1) The department shall examine its records, as well as  
27 those records that it is authorized to request from the State  
28 Department of Mental Health pursuant to Section 8104 of the  
29 Welfare and Institutions Code, in order to determine if the  
30 purchaser is a person described in Section 12021, 12021.1, or  
31 subparagraph (A) of paragraph (9) of subdivision (a) of Section  
32 12072 of this code or Section 8100 or 8103 of the Welfare and  
33 Institutions Code.

34 (2) To the extent that funding is available, the Department of  
35 Justice may participate in the National Instant Criminal  
36 Background Check System (NICS), as described in subsection (t)  
37 of Section 922 of Title 18 of the United States Code, and, if that  
38 participation is implemented, shall notify the dealer and the chief  
39 of the police department of the city or city and county in which  
40 the sale was made, or if the sale was made in a district in which

1 there is no municipal police department, the sheriff of the county  
2 in which the sale was made, that the purchaser is a person  
3 prohibited from acquiring a firearm under federal law.

4 (3) If the department determines that the purchaser is a person  
5 described in Section 12021, 12021.1, or subparagraph (A) of  
6 paragraph (9) of subdivision (a) of Section 12072 of this code or  
7 Section 8100 or 8103 of the Welfare and Institutions Code, it  
8 shall immediately notify the dealer and the chief of the police  
9 department of the city or city and county in which the sale was  
10 made, or if the sale was made in a district in which there is no  
11 municipal police department, the sheriff of the county in which  
12 the sale was made, of that fact.

13 (4) If the department determines that the copies of the register  
14 submitted to it pursuant to paragraph (3) of subdivision (b)  
15 contain any blank spaces or inaccurate, illegible, or incomplete  
16 information, preventing identification of the purchaser or the  
17 pistol, revolver, or other firearm to be purchased, or if any fee  
18 required pursuant to subdivision (e) is not submitted by the  
19 dealer in conjunction with submission of copies of the register,  
20 the department may notify the dealer of that fact. Upon  
21 notification by the department, the dealer shall submit corrected  
22 copies of the register to the department, or shall submit any fee  
23 required pursuant to subdivision (e), or both, as appropriate and,  
24 if notification by the department is received by the dealer at any  
25 time prior to delivery of the firearm to be purchased, the dealer  
26 shall withhold delivery until the conclusion of the waiting period  
27 described in Sections 12071 and 12072.

28 (5) If the department determines that the information  
29 transmitted to it pursuant to subdivision (c) contains inaccurate or  
30 incomplete information preventing identification of the purchaser  
31 or the pistol, revolver, or other firearm capable of being  
32 concealed upon the person to be purchased, or if the fee required  
33 pursuant to subdivision (e) is not transmitted by the dealer in  
34 conjunction with transmission of the electronic or telephonic  
35 record, the department may notify the dealer of that fact. Upon  
36 notification by the department, the dealer shall transmit  
37 corrections to the record of electronic or telephonic transfer to  
38 the department, or shall transmit any fee required pursuant to  
39 subdivision (e), or both, as appropriate, and if notification by the  
40 department is received by the dealer at any time prior to delivery

1 of the firearm to be purchased, the dealer shall withhold delivery  
2 until the conclusion of the waiting period described in Sections  
3 12071 and 12072.

4 (e) The Department of Justice may require the dealer to charge  
5 each firearm purchaser a fee not to exceed fourteen dollars (\$14),  
6 except that the fee may be increased at a rate not to exceed any  
7 increase in the California Consumer Price Index as compiled and  
8 reported by the California Department of Industrial Relations.  
9 The fee shall be no more than is necessary to fund the following:

10 (1) (A) The department for the cost of furnishing this  
11 information.

12 (B) The department for the cost of meeting its obligations  
13 under paragraph (2) of subdivision (b) of Section 8100 of the  
14 Welfare and Institutions Code.

15 (2) Local mental health facilities for state-mandated local costs  
16 resulting from the reporting requirements imposed by Section  
17 8103 of the Welfare and Institutions Code.

18 (3) The State Department of Mental Health for the costs  
19 resulting from the requirements imposed by Section 8104 of the  
20 Welfare and Institutions Code.

21 (4) Local mental hospitals, sanitariums, and institutions for  
22 state-mandated local costs resulting from the reporting  
23 requirements imposed by Section 8105 of the Welfare and  
24 Institutions Code.

25 (5) Local law enforcement agencies for state-mandated local  
26 costs resulting from the notification requirements set forth in  
27 subdivision (a) of Section 6385 of the Family Code.

28 (6) Local law enforcement agencies for state-mandated local  
29 costs resulting from the notification requirements set forth in  
30 subdivision (c) of Section 8105 of the Welfare and Institutions  
31 Code.

32 (7) For the actual costs associated with the electronic or  
33 telephonic transfer of information pursuant to subdivision (c).

34 (8) The Department of Food and Agriculture for the costs  
35 resulting from the notification provisions set forth in Section  
36 5343.5 of the Food and Agricultural Code.

37 (9) The department for the costs associated with subparagraph  
38 (D) of paragraph (2) of subdivision (f) of Section 12072.

39 (10) The department for the costs associated with funding  
40 Department of Justice firearms-related regulatory and

1 enforcement activities related to the sale, purchase, loan, or  
2 transfer of firearms pursuant to this chapter.

3 The fee established pursuant to this subdivision shall not  
4 exceed the sum of the actual processing costs of the department,  
5 the estimated reasonable costs of the local mental health facilities  
6 for complying with the reporting requirements imposed by  
7 paragraph (2) of this subdivision, the costs of the State  
8 Department of Mental Health for complying with the  
9 requirements imposed by paragraph (3) of this subdivision, the  
10 estimated reasonable costs of local mental hospitals, sanitariums,  
11 and institutions for complying with the reporting requirements  
12 imposed by paragraph (4) of this subdivision, the estimated  
13 reasonable costs of local law enforcement agencies for  
14 complying with the notification requirements set forth in  
15 subdivision (a) of Section 6385 of the Family Code, the  
16 estimated reasonable costs of local law enforcement agencies for  
17 complying with the notification requirements set forth in  
18 subdivision (c) of Section 8105 of the Welfare and Institutions  
19 Code imposed by paragraph (6) of this subdivision, the estimated  
20 reasonable costs of the Department of Food and Agriculture for  
21 the costs resulting from the notification provisions set forth in  
22 Section 5343.5 of the Food and Agricultural Code, the estimated  
23 reasonable costs of the department for the costs associated with  
24 subparagraph (D) of paragraph (2) of subdivision (f) of Section  
25 12072, and the estimated reasonable costs of department  
26 firearms-related regulatory and enforcement activities related to  
27 the sale, purchase, loan, or transfer of firearms pursuant to this  
28 chapter.

29 (f) (1) The Department of Justice may charge a fee sufficient  
30 to reimburse it for each of the following but not to exceed  
31 fourteen dollars (\$14), except that the fee may be increased at a  
32 rate not to exceed any increase in the California Consumer Price  
33 Index as compiled and reported by the California Department of  
34 Industrial Relations:

35 (A) For the actual costs associated with the preparation, sale,  
36 processing, and filing of forms or reports required or utilized  
37 pursuant to Section 12078.

38 (B) For the actual processing costs associated with the  
39 submission of a Dealers' Record of Sale to the department.

1 (C) For the actual costs associated with the preparation, sale,  
2 processing, and filing of reports utilized pursuant to subdivision  
3 (f) of Section 12078 or paragraph (18) of subdivision (b) of  
4 Section 12071, or clause (i) of subparagraph (A) of paragraph (2)  
5 of subdivision (f) of Section 12072, or paragraph (3) of  
6 subdivision (f) of Section 12072.

7 (D) For the actual costs associated with the electronic or  
8 telephonic transfer of information pursuant to subdivision (c).

9 (2) If the department charges a fee pursuant to subparagraph  
10 (B) of paragraph (1) of this subdivision, it shall be charged in the  
11 same amount to all categories of transaction that are within that  
12 subparagraph.

13 (3) Any costs incurred by the Department of Justice to  
14 implement this subdivision shall be reimbursed from fees  
15 collected and charged pursuant to this subdivision. No fees shall  
16 be charged to the dealer pursuant to subdivision (e) for  
17 implementing this subdivision.

18 (g) All money received by the department pursuant to this  
19 section shall be deposited in the Dealers' Record of Sale Special  
20 Account of the General Fund, which is hereby created, to be  
21 available, upon appropriation by the Legislature, for expenditure  
22 by the department to offset the costs incurred pursuant to this  
23 section, paragraph (1) and subparagraph (D) of paragraph (2) of  
24 subdivision (f) of Section 12072, Sections 12083 and 12099,  
25 subdivision (c) of Section 12131, Sections 12234, 12289, and  
26 12289.5, and subdivisions (f) and (g) of Section 12305.

27 (h) Where the electronic or telephonic transfer of applicant  
28 information is used, the department shall establish a system to be  
29 used for the submission of the fees described in subdivision (e) to  
30 the department.

31 (i) (1) Only one fee shall be charged pursuant to this section  
32 for a single transaction on the same date for the sale of any  
33 number of firearms that are not pistols, revolvers, or other  
34 firearms capable of being concealed upon the person or for the  
35 taking of possession of those firearms.

36 (2) In a single transaction on the same date for the delivery of  
37 any number of firearms that are pistols, revolvers, or other  
38 firearms capable of being concealed upon the person, the  
39 department shall charge a reduced fee pursuant to this section for



1 the second and subsequent firearms that are part of that  
2 transaction.

3 (j) Only one fee shall be charged pursuant to this section for a  
4 single transaction on the same date for taking title or possession  
5 of any number of firearms pursuant to paragraph (18) of  
6 subdivision (b) of Section 12071 or subdivision (c) or (i) of  
7 Section 12078.

8 (k) Whenever the Department of Justice acts pursuant to this  
9 section as it pertains to firearms other than pistols, revolvers, or  
10 other firearms capable of being concealed upon the person, the  
11 department's acts or omissions shall be deemed to be  
12 discretionary within the meaning of the California Tort Claims  
13 Act pursuant to Division 3.6 (commencing with Section 810) of  
14 Title 1 of the Government Code.

15 (l) As used in this section, the following definitions apply:

16 (1) "Purchaser" means the purchaser or transferee of a firearm  
17 or a person being loaned a firearm.

18 (2) "Purchase" means the purchase, loan, or transfer of a  
19 firearm.

20 (3) "Sale" means the sale, loan, or transfer of a firearm.

21 (4) "Seller" means, if the transaction is being conducted  
22 pursuant to Section 12082, the person selling, loaning, or  
23 transferring the firearm.

24 SEC. 11.5. Section 12076 of the Penal Code is amended to  
25 read:

26 12076. (a) (1) Before January 1, 1998, the Department of  
27 Justice shall determine the method by which a dealer shall submit  
28 firearm purchaser information to the department and the  
29 information shall be in one of the following formats:

30 (A) Submission of the register described in Section 12077.

31 (B) Electronic or telephonic transfer of the information  
32 contained in the register described in Section 12077.

33 (2) On or after January 1, 1998, electronic or telephonic  
34 transfer, including voice or facsimile transmission, shall be the  
35 exclusive means by which purchaser information is transmitted  
36 to the department.

37 (3) On or after January 1, 2003, except as permitted by the  
38 department, electronic transfer shall be the exclusive means by  
39 which information is transmitted to the department. Telephonic

1 transfer shall not be permitted for information regarding sales of  
2 any firearms.

3 (b) (1) Where the register is used, the purchaser of any  
4 firearm shall be required to present clear evidence of his or her  
5 identity and age, as defined in Section 12071, to the dealer, and  
6 the dealer shall require him or her to sign his or her current legal  
7 name and affix his or her residence address and date of birth to  
8 the register in quadruplicate. The salesperson shall affix his or  
9 her signature to the register in quadruplicate as a witness to the  
10 signature and identification of the purchaser. Any person  
11 furnishing a fictitious name or address or knowingly furnishing  
12 any incorrect information or knowingly omitting any information  
13 required to be provided for the register and any person violating  
14 any provision of this section is guilty of a misdemeanor.

15 (2) The original of the register shall be retained by the dealer  
16 in consecutive order. Each book of 50 originals shall become the  
17 permanent register of transactions that shall be retained for not  
18 less than three years from the date of the last transaction and  
19 shall be available for the inspection of any peace officer,  
20 Department of Justice employee designated by the Attorney  
21 General, or agent of the federal Bureau of Alcohol, Tobacco, and  
22 Firearms upon the presentation of proper identification, but no  
23 information shall be compiled therefrom regarding the purchasers  
24 or other transferees of firearms that are not pistols, revolvers, or  
25 other firearms capable of being concealed upon the person.

26 (3) Two copies of the original sheet of the register, on the date  
27 of the application to purchase, shall be placed in the mail,  
28 postage prepaid, and properly addressed to the Department of  
29 Justice in Sacramento.

30 (4) If requested, a photocopy of the original shall be provided  
31 to the purchaser by the dealer.

32 (5) If the transaction is one conducted pursuant to Section  
33 12082, a photocopy of the original shall be provided to the seller  
34 by the dealer, upon request.

35 (c) (1) Where the electronic or telephonic transfer of applicant  
36 information is used, the purchaser shall be required to present  
37 clear evidence of his or her identity and age, as defined in  
38 Section 12071, to the dealer, and the dealer shall require him or  
39 her to sign his or her current legal name to the record of  
40 electronic or telephonic transfer. The salesperson shall affix his

1 or her signature to the record of electronic or telephonic transfer  
2 as a witness to the signature and identification of the purchaser.  
3 Any person furnishing a fictitious name or address or knowingly  
4 furnishing any incorrect information or knowingly omitting any  
5 information required to be provided for the electronic or  
6 telephonic transfer and any person violating any provision of this  
7 section is guilty of a misdemeanor.

8 (2) The record of applicant information shall be transmitted to  
9 the Department of Justice in Sacramento by electronic or  
10 telephonic transfer on the date of the application to purchase.

11 (3) The original of each record of electronic or telephonic  
12 transfer shall be retained by the dealer in consecutive order. Each  
13 original shall become the permanent record of the transaction that  
14 shall be retained for not less than three years from the date of the  
15 last transaction and shall be provided for the inspection of any  
16 peace officer, Department of Justice employee designated by the  
17 Attorney General, or agent of the federal Bureau of Alcohol,  
18 Tobacco, Firearms, and Explosives, upon the presentation of  
19 proper identification, but no information shall be compiled  
20 therefrom regarding the purchasers or other transferees of  
21 firearms that are not pistols, revolvers, or other firearms capable  
22 of being concealed upon the person.

23 (4) If requested, a copy of the record of electronic or  
24 telephonic transfer shall be provided to the purchaser by the  
25 dealer.

26 (5) If the transaction is one conducted pursuant to Section  
27 12082, a copy shall be provided to the seller by the dealer, upon  
28 request.

29 (d) (1) The department shall examine its records, as well as  
30 those records that it is authorized to request from the State  
31 Department of Mental Health pursuant to Section 8104 of the  
32 Welfare and Institutions Code, in order to determine if the  
33 purchaser is a person described in Section 12021, 12021.1, or  
34 subparagraph (A) of paragraph (9) of subdivision (a) of Section  
35 12072 of this code or Section 8100 or 8103 of the Welfare and  
36 Institutions Code.

37 (2) To the extent that funding is available, the Department of  
38 Justice may participate in the National Instant Criminal  
39 Background Check System (NICS), as described in subsection (t)  
40 of Section 922 of Title 18 of the United States Code, and, if that

1 participation is implemented, shall notify the dealer and the chief  
2 of the police department of the city or city and county in which  
3 the sale was made, or if the sale was made in a district in which  
4 there is no municipal police department, the sheriff of the county  
5 in which the sale was made, that the purchaser is a person  
6 prohibited from acquiring a firearm under federal law.

7 (3) If the department determines that the purchaser is a person  
8 described in Section 12021, 12021.1, or subparagraph (A) of  
9 paragraph (9) of subdivision (a) of Section 12072 of this code or  
10 Section 8100 or 8103 of the Welfare and Institutions Code, it  
11 shall immediately notify the dealer and the chief of the police  
12 department of the city or city and county in which the sale was  
13 made, or if the sale was made in a district in which there is no  
14 municipal police department, the sheriff of the county in which  
15 the sale was made, of that fact.

16 (4) If the department determines that the copies of the register  
17 submitted to it pursuant to paragraph (3) of subdivision (b)  
18 contain any blank spaces or inaccurate, illegible, or incomplete  
19 information, preventing identification of the purchaser or the  
20 pistol, revolver, or other firearm to be purchased, or if any fee  
21 required pursuant to subdivision (e) is not submitted by the  
22 dealer in conjunction with submission of copies of the register,  
23 the department may notify the dealer of that fact. Upon  
24 notification by the department, the dealer shall submit corrected  
25 copies of the register to the department, or shall submit any fee  
26 required pursuant to subdivision (e), or both, as appropriate and,  
27 if notification by the department is received by the dealer at any  
28 time prior to delivery of the firearm to be purchased, the dealer  
29 shall withhold delivery until the conclusion of the waiting period  
30 described in Sections 12071 and 12072.

31 (5) If the department determines that the information  
32 transmitted to it pursuant to subdivision (c) contains inaccurate or  
33 incomplete information preventing identification of the purchaser  
34 or the pistol, revolver, or other firearm capable of being  
35 concealed upon the person to be purchased, or if the fee required  
36 pursuant to subdivision (e) is not transmitted by the dealer in  
37 conjunction with transmission of the electronic or telephonic  
38 record, the department may notify the dealer of that fact. Upon  
39 notification by the department, the dealer shall transmit  
40 corrections to the record of electronic or telephonic transfer to

1 the department, or shall transmit any fee required pursuant to  
2 subdivision (e), or both, as appropriate, and if notification by the  
3 department is received by the dealer at any time prior to delivery  
4 of the firearm to be purchased, the dealer shall withhold delivery  
5 until the conclusion of the waiting period described in Sections  
6 12071 and 12072.

7 (e) The Department of Justice may require the dealer to charge  
8 each firearm purchaser a fee not to exceed fourteen dollars (\$14),  
9 except that the fee may be increased at a rate not to exceed any  
10 increase in the California Consumer Price Index as compiled and  
11 reported by the California Department of Industrial Relations.  
12 The fee shall be no more than is necessary to fund the following:

13 (1) (A) The department for the cost of furnishing this  
14 information.

15 (B) The department for the cost of meeting its obligations  
16 under paragraph (2) of subdivision (b) of Section 8100 of the  
17 Welfare and Institutions Code.

18 (2) Local mental health facilities for state-mandated local costs  
19 resulting from the reporting requirements imposed by Section  
20 8103 of the Welfare and Institutions Code.

21 (3) The State Department of Mental Health for the costs  
22 resulting from the requirements imposed by Section 8104 of the  
23 Welfare and Institutions Code.

24 (4) Local mental hospitals, sanitariums, and institutions for  
25 state-mandated local costs resulting from the reporting  
26 requirements imposed by Section 8105 of the Welfare and  
27 Institutions Code.

28 (5) Local law enforcement agencies for state-mandated local  
29 costs resulting from the notification requirements set forth in  
30 subdivision (a) of Section 6385 of the Family Code.

31 (6) Local law enforcement agencies for state-mandated local  
32 costs resulting from the notification requirements set forth in  
33 subdivision (c) of Section 8105 of the Welfare and Institutions  
34 Code.

35 (7) For the actual costs associated with the electronic or  
36 telephonic transfer of information pursuant to subdivision (c).

37 (8) The Department of Food and Agriculture for the costs  
38 resulting from the notification provisions set forth in Section  
39 5343.5 of the Food and Agricultural Code.

(9) The department for the costs associated with subparagraph (D) of paragraph (2) of subdivision (f) of Section 12072.

(10) The department for the costs associated with funding Department of Justice firearms-related regulatory and enforcement activities related to the sale, purchase, loan, or transfer of firearms pursuant to this chapter.

The fee established pursuant to this subdivision shall not exceed the sum of the actual processing costs of the department, the estimated reasonable costs of the local mental health facilities for complying with the reporting requirements imposed by paragraph (2) of this subdivision, the costs of the State Department of Mental Health for complying with the requirements imposed by paragraph (3) of this subdivision, the estimated reasonable costs of local mental hospitals, sanitariums, and institutions for complying with the reporting requirements imposed by paragraph (4) of this subdivision, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (a) of Section 6385 of the Family Code, the estimated reasonable costs of local law enforcement agencies for complying with the notification requirements set forth in subdivision (c) of Section 8105 of the Welfare and Institutions Code imposed by paragraph (6) of this subdivision, the estimated reasonable costs of the Department of Food and Agriculture for the costs resulting from the notification provisions set forth in Section 5343.5 of the Food and Agricultural Code, the estimated reasonable costs of the department for the costs associated with subparagraph (D) of paragraph (2) of subdivision (f) of Section 12072, and the estimated reasonable costs of department firearms-related regulatory and enforcement activities related to the sale, purchase, loan, or transfer of firearms pursuant to this chapter.

(f) (1) The Department of Justice may charge a fee sufficient to reimburse it for each of the following but not to exceed fourteen dollars (\$14), except that the fee may be increased at a rate not to exceed any increase in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations:

1 (A) For the actual costs associated with the preparation, sale,  
2 processing, and filing of forms or reports required or utilized  
3 pursuant to Section 12078.

4 (B) For the actual processing costs associated with the  
5 submission of a Dealers' Record of Sale to the department.

6 (C) For the actual costs associated with the preparation, sale,  
7 processing, and filing of reports utilized pursuant to subdivision  
8 (j) of Section 12078 or paragraph (18) of subdivision (b) of  
9 Section 12071, or clause (i) of subparagraph (A) of paragraph (2)  
10 of subdivision (f) of Section 12072, or paragraph (3) of  
11 subdivision (f) of Section 12072.

12 (D) For the actual costs associated with the electronic or  
13 telephonic transfer of information pursuant to subdivision (c).

14 (2) If the department charges a fee pursuant to subparagraph  
15 (B) of paragraph (1) of this subdivision, it shall be charged in the  
16 same amount to all categories of transaction that are within that  
17 subparagraph.

18 (3) Any costs incurred by the Department of Justice to  
19 implement this subdivision shall be reimbursed from fees  
20 collected and charged pursuant to this subdivision. No fees shall  
21 be charged to the dealer pursuant to subdivision (e) for  
22 implementing this subdivision.

23 (g) All money received by the department pursuant to this  
24 section shall be deposited in the Dealers' Record of Sale Special  
25 Account of the General Fund, which is hereby created, to be  
26 available, upon appropriation by the Legislature, for expenditure  
27 by the department to offset the costs incurred pursuant to this  
28 section, Sections 12072, 12083, and 12099, subdivision (c) of  
29 Section 12131, Sections 12234, 12289, and 12289.5, and  
30 subdivisions (f) and (g) of Section 12305.

31 (h) Where the electronic or telephonic transfer of applicant  
32 information is used, the department shall establish a system to be  
33 used for the submission of the fees described in subdivision (e) to  
34 the department.

35 (i) (1) Only one fee shall be charged pursuant to this section  
36 for a single transaction on the same date for the sale of any  
37 number of firearms that are not pistols, revolvers, or other  
38 firearms capable of being concealed upon the person or for the  
39 taking of possession of those firearms.

(2) In a single transaction on the same date for the delivery of any number of firearms that are pistols, revolvers, or other firearms capable of being concealed upon the person, the department shall charge a reduced fee pursuant to this section for the second and subsequent firearms that are part of that transaction.

(j) Only one fee shall be charged pursuant to this section for a single transaction on the same date for taking title or possession of any number of firearms pursuant to paragraph (18) of subdivision (b) of Section 12071 or subdivision (c) or (i) of Section 12078.

(k) Whenever the Department of Justice acts pursuant to this section as it pertains to firearms other than pistols, revolvers, or other firearms capable of being concealed upon the person, the department's acts or omissions shall be deemed to be discretionary within the meaning of the California Tort Claims Act pursuant to Division 3.6 (commencing with Section 810) of Title 1 of the Government Code.

(l) As used in this section, the following definitions apply:

(1) "Purchaser" means the purchaser or transferee of a firearm or a person being loaned a firearm.

(2) "Purchase" means the purchase, loan, or transfer of a firearm.

(3) "Sale" means the sale, loan, or transfer of a firearm.

(4) "Seller" means, if the transaction is being conducted pursuant to Section 12082, the person selling, loaning, or transferring the firearm.

SEC. 12. Section 12078 of the Penal Code is amended to read:

12078. (a) (1) The waiting periods described in Sections 12071 and 12072 shall not apply to deliveries, transfers, or sales of firearms made to persons properly identified as full-time paid peace officers as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, provided that the peace officers are authorized by their employer to carry firearms while in the performance of their duties. Proper identification is defined as verifiable written certification from the head of the agency by which the purchaser or transferee is employed, identifying the purchaser or transferee as a peace officer who is authorized to carry firearms while in the performance of his or her duties, and



1 authorizing the purchase or transfer. The certification shall be  
2 delivered to the dealer at the time of purchase or transfer and the  
3 purchaser or transferee shall identify himself or herself as the  
4 person authorized in the certification. The dealer shall keep the  
5 certification with the record of sale. On the date that the delivery,  
6 sale, or transfer is made, the dealer delivering the firearm shall  
7 transmit to the Department of Justice an electronic or telephonic  
8 report of the transaction as is indicated in subdivision (b) or (c)  
9 of Section 12077.

10 (2) Subdivision (b) of Section 12801 and the preceding  
11 provisions of this article do not apply to deliveries, transfers, or  
12 sales of firearms made to authorized law enforcement  
13 representatives of cities, counties, cities and counties, or state or  
14 federal governments for exclusive use by those governmental  
15 agencies if, prior to the delivery, transfer, or sale of these  
16 firearms, written authorization from the head of the agency  
17 authorizing the transaction is presented to the person from whom  
18 the purchase, delivery, or transfer is being made. Proper written  
19 authorization is defined as verifiable written certification from  
20 the head of the agency by which the purchaser or transferee is  
21 employed, identifying the employee as an individual authorized  
22 to conduct the transaction, and authorizing the transaction for the  
23 exclusive use of the agency by which he or she is employed.  
24 Within 10 days of the date a handgun is acquired by the agency,  
25 a record of the same shall be entered as an institutional weapon  
26 into the Automated Firearms System (AFS) via the California  
27 Law Enforcement Telecommunications System (CLETS) by the  
28 law enforcement or state agency. Those agencies without access  
29 to AFS shall arrange with the sheriff of the county in which the  
30 agency is located to input this information via this system.

31 (3) Subdivision (b) of Section 12801 and the preceding  
32 provisions of this article do not apply to the loan of a firearm  
33 made by an authorized law enforcement representative of a city,  
34 county, or city and county, or the state or federal government to a  
35 peace officer employed by that agency and authorized to carry a  
36 firearm for the carrying and use of that firearm by that peace  
37 officer in the course and scope of his or her duties.

38 (4) Subdivision (b) of Section 12801 and the preceding  
39 provisions of this article do not apply to the delivery, sale, or  
40 transfer of a firearm by a law enforcement agency to a peace

1 officer pursuant to Section 10334 of the Public Contract Code.  
2 Within 10 days of the date that a handgun is sold, delivered, or  
3 transferred pursuant to Section 10334 of the Public Contract  
4 Code to that peace officer, the name of the officer and the make,  
5 model, serial number, and other identifying characteristics of the  
6 firearm being sold, transferred, or delivered shall be entered into  
7 the Automated Firearms System (AFS) via the California Law  
8 Enforcement Telecommunications System (CLETS) by the law  
9 enforcement or state agency that sold, transferred, or delivered  
10 the firearm. Those agencies without access to AFS shall arrange  
11 with the sheriff of the county in which the agency is located to  
12 input this information via this system.

13 (5) Subdivision (b) of Section 12801 and the preceding  
14 provisions of this article do not apply to the delivery, sale, or  
15 transfer of a firearm by a law enforcement agency to a retiring  
16 peace officer who is authorized to carry a firearm pursuant to  
17 Section 12027.1. Within 10 days of the date that a handgun is  
18 sold, delivered, or transferred to that retiring peace officer, the  
19 name of the officer and the make, model, serial number, and  
20 other identifying characteristics of the firearm being sold,  
21 transferred, or delivered shall be entered into the Automated  
22 Firearms System (AFS) via the California Law Enforcement  
23 Telecommunications System (CLETS) by the law enforcement or  
24 state agency that sold, transferred, or delivered the firearm.  
25 Those agencies without access to AFS shall arrange with the  
26 sheriff of the county in which the agency is located to input this  
27 information via this system.

28 (6) Subdivision (d) of Section 12072 and subdivision (b) of  
29 Section 12801 do not apply to sales, deliveries, or transfers of  
30 firearms to authorized representatives of cities, cities and  
31 counties, counties, or state or federal governments for those  
32 governmental agencies where the entity is acquiring the weapon  
33 as part of an authorized, voluntary program where the entity is  
34 buying or receiving weapons from private individuals. Any  
35 weapons acquired pursuant to this paragraph shall be disposed of  
36 pursuant to the applicable provisions of Section 12028 or 12032.

37 (7) Subdivision (d) of Section 12072 and subdivision (b) of  
38 Section 12801 shall not apply to the sale, loan, delivery, or  
39 transfer of a firearm made by an authorized law enforcement  
40 representative of a city, county, city and county, state, or the

1 federal government to any public or private nonprofit historical  
2 society, museum, or institutional collection or the purchase or  
3 receipt of that firearm by that public or private nonprofit  
4 historical society, museum, or institutional collection if all of the  
5 following conditions are met:

6 (A) The entity receiving the firearm is open to the public.

7 (B) The firearm prior to delivery is deactivated or rendered  
8 inoperable.

9 (C) The firearm is not subject to Section 12028, 12028.5,  
10 12030, or 12032.

11 (D) The firearm is not prohibited by other provisions of law  
12 from being sold, delivered, or transferred to the public at large.

13 (E) Prior to delivery, the entity receiving the firearm submits a  
14 written statement to the law enforcement representative stating  
15 that the firearm will not be restored to operating condition, and  
16 will either remain with that entity, or if subsequently disposed of,  
17 will be transferred in accordance with the applicable provisions  
18 of this article and, if applicable, Section 12801.

19 (F) Within 10 days of the date that the firearm is sold, loaned,  
20 delivered, or transferred to that entity, the name of the  
21 government entity delivering the firearm, and the make, model,  
22 serial number, and other identifying characteristics of the firearm  
23 and the name of the person authorized by the entity to take  
24 possession of the firearm shall be reported to the department in a  
25 manner prescribed by the department.

26 (G) In the event of a change in the status of the designated  
27 representative, the entity shall notify the department of a new  
28 representative within 30 days.

29 (8) Subdivision (d) of Section 12072 and subdivision (b) of  
30 Section 12801 shall not apply to the sale, loan, delivery, or  
31 transfer of a firearm made by any person other than a  
32 representative of an authorized law enforcement agency to any  
33 public or private nonprofit historical society, museum, or  
34 institutional collection if all of the following conditions are met:

35 (A) The entity receiving the firearm is open to the public.

36 (B) The firearm is deactivated or rendered inoperable prior to  
37 delivery.

38 (C) The firearm is not of a type prohibited from being sold,  
39 delivered, or transferred to the public.

1 (D) Prior to delivery, the entity receiving the firearm submits a  
2 written statement to the person selling, loaning, or transferring  
3 the firearm stating that the firearm will not be restored to  
4 operating condition, and will either remain with that entity, or if  
5 subsequently disposed of, will be transferred in accordance with  
6 the applicable provisions of this article and, if applicable Section  
7 12801.

8 (E) If title to a handgun is being transferred to the public or  
9 private nonprofit historical society, museum, or institutional  
10 collection, then the designated representative of that public or  
11 private historical society, museum or institutional collection  
12 within 30 days of taking possession of that handgun, shall  
13 forward by prepaid mail or deliver in person to the Department of  
14 Justice, a single report signed by both parties to the transaction,  
15 that includes information identifying the person representing that  
16 public or private historical society, museum, or institutional  
17 collection, how title was obtained and from whom, and a  
18 description of the firearm in question, along with a copy of the  
19 written statement referred to in subparagraph (D). The report  
20 forms that are to be completed pursuant to this paragraph shall be  
21 provided by the Department of Justice.

22 (F) In the event of a change in the status of the designated  
23 representative, the entity shall notify the department of a new  
24 representative within 30 days.

25 (b) (1) Section 12071, subdivisions (c) and (d) of Section  
26 12072, and subdivision (b) of Section 12801 shall not apply to  
27 deliveries, sales, or transfers of firearms between or to importers  
28 and manufacturers of firearms licensed to engage in that business  
29 pursuant to Chapter 44 (commencing with Section 921) of Title  
30 18 of the United States Code and the regulations issued pursuant  
31 thereto.

32 (2) Subdivision (b) of Section 12801 shall not apply to the  
33 delivery, sale, or transfer of a handgun to a person licensed  
34 pursuant to Section 12071, where the licensee is receiving the  
35 handgun in the course and scope of his or her activities as a  
36 person licensed pursuant to Section 12071.

37 (c) (1) Subdivision (d) of Section 12072 shall not apply to the  
38 infrequent transfer of a firearm that is not a handgun by gift,  
39 bequest, intestate succession, or other means by one individual to

1 another if both individuals are members of the same immediate  
2 family.

3 (2) Subdivision (d) of Section 12072 shall not apply to the  
4 infrequent transfer of a handgun by gift, bequest, intestate  
5 succession, or other means by one individual to another if both  
6 individuals are members of the same immediate family and all of  
7 the following conditions are met:

8 (A) The person to whom the firearm is transferred shall,  
9 within 30 days of taking possession of the firearm, forward by  
10 prepaid mail or deliver in person to the Department of Justice, a  
11 report that includes information concerning the individual taking  
12 possession of the firearm, how title was obtained and from  
13 whom, and a description of the firearm in question. The report  
14 forms that individuals complete pursuant to this paragraph shall  
15 be provided to them by the Department of Justice.

16 (B) The person taking title to the firearm shall first obtain a  
17 handgun safety certificate.

18 (C) The person receiving the firearm is 18 years of age or  
19 older.

20 (3) As used in this subdivision, "immediate family member"  
21 means any one of the following relationships:

22 (A) Parent and child.

23 (B) Grandparent and grandchild.

24 (d) (1) Subdivision (d) of Section 12072 shall not apply to the  
25 infrequent loan of firearms between persons who are personally  
26 known to each other for any lawful purpose, if the loan does not  
27 exceed 30 days in duration and, when the firearm is a handgun,  
28 commencing January 1, 2003, the individual being loaned the  
29 handgun has a valid handgun safety certificate.

30 (2) Subdivision (d) of Section 12072, and subdivision (b) of  
31 Section 12801 shall not apply to the loan of a firearm where all  
32 of the following conditions exist:

33 (A) The person loaning the firearm is at all times within the  
34 presence of the person being loaned the firearm.

35 (B) The loan is for a lawful purpose.

36 (C) The loan does not exceed three days in duration.

37 (D) The individual receiving the firearm is not prohibited from  
38 owning or possessing a firearm pursuant to Section 12021 or  
39 12021.1 of this code, or by Section 8100 or 8103 of the Welfare  
40 and Institutions Code.

1 (E) The person loaning the firearm is 18 years of age or older.

2 (F) The person being loaned the firearm is 18 years of age or  
3 older.

4 (e) Section 12071, subdivisions (c) and (d) of Section 12072,  
5 and subdivision (b) of Section 12801 shall not apply to the  
6 delivery of a firearm to a gunsmith for service or repair, or to the  
7 return of the firearm to its owner by the gunsmith.

8 (f) Subdivision (d) of Section 12072 and subdivision (b) of  
9 Section 12801 shall not apply to the sale, delivery, or transfer of  
10 firearms by persons who reside in this state to persons who reside  
11 outside this state who are licensed pursuant to Chapter 44  
12 (commencing with Section 921) of Title 18 of the United States  
13 Code and the regulations issued pursuant thereto, if the sale,  
14 delivery, or transfer is in accordance with Chapter 44  
15 (commencing with Section 921) of Title 18 of the United States  
16 Code and the regulations issued pursuant thereto.

17 (g) (1) Subdivision (d) of Section 12072 shall not apply to the  
18 infrequent sale or transfer of a firearm, other than a handgun, at  
19 auctions or similar events conducted by nonprofit mutual or  
20 public benefit corporations organized pursuant to the  
21 Corporations Code.

22 As used in this paragraph, the term “infrequent” shall not be  
23 construed to prohibit different local chapters of the same  
24 nonprofit corporation from conducting auctions or similar events,  
25 provided the individual local chapter conducts the auctions or  
26 similar events infrequently. It is the intent of the Legislature that  
27 different local chapters, representing different localities, be  
28 entitled to invoke the exemption created by this paragraph,  
29 notwithstanding the frequency with which other chapters of the  
30 same nonprofit corporation may conduct auctions or similar  
31 events.

32 (2) Subdivision (d) of Section 12072 shall not apply to the  
33 transfer of a firearm other than a handgun, if the firearm is  
34 donated for an auction or similar event described in paragraph (1)  
35 and the firearm is delivered to the nonprofit corporation  
36 immediately preceding, or contemporaneous with, the auction or  
37 similar event.

38 (3) The waiting period described in Sections 12071 and 12072  
39 shall not apply to a dealer who delivers a firearm other than a  
40 handgun at an auction or similar event described in paragraph

(1), as authorized by subparagraph (C) of paragraph (1) of subdivision (b) of Section 12071. Within two business days of completion of the application to purchase, the dealer shall forward by prepaid mail to the Department of Justice a report of the same as is indicated in subdivision (c) of Section 12077. If the electronic or telephonic transfer of applicant information is used, within two business days of completion of the application to purchase, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the same as is indicated in subdivision (c) of Section 12077.

(h) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to the loan of a firearm to a person 18 years of age or older for the purposes of shooting at targets if the loan occurs on the premises of a target facility that holds a business or regulatory license or on the premises of any club or organization organized for the purposes of practicing shooting at targets upon established ranges, whether public or private, if the firearm is at all times kept within the premises of the target range or on the premises of the club or organization.

(i) (1) Subdivision (d) of Section 12072 shall not apply to a person who takes title or possession of a firearm that is not a handgun by operation of law if the person is not prohibited by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms.

(2) Subdivision (d) of Section 12072 shall not apply to a person who takes title or possession of a handgun by operation of law if the person is not prohibited by Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms and all of the following conditions are met:

(A) If the person taking title or possession is neither a levying officer as defined in Section 481.140, 511.060, or 680.210 of the Code of Civil Procedure, nor a person who is receiving that firearm pursuant to subparagraph (G), (I), or (J) of paragraph (2) of subdivision (u), the person shall, within 30 days of taking possession, forward by prepaid mail or deliver in person to the Department of Justice, a report of information concerning the individual taking possession of the firearm, how title or possession was obtained and from whom, and a description of the firearm in question. The reports that individuals complete

1 pursuant to this paragraph shall be provided to them by the  
2 department.

3 (B) If the person taking title or possession is receiving the  
4 firearm pursuant to subparagraph (G) of paragraph (2) of  
5 subdivision (u), the person shall do both of the following:

6 (i) Within 30 days of taking possession, forward by prepaid  
7 mail or deliver in person to the department, a report of  
8 information concerning the individual taking possession of the  
9 firearm, how title or possession was obtained and from whom,  
10 and a description of the firearm in question. The reports that  
11 individuals complete pursuant to this paragraph shall be provided  
12 to them by the department.

13 (ii) Prior to taking title or possession of the firearm, the person  
14 shall obtain a handgun safety certificate.

15 (C) Where the person receiving title or possession of the  
16 handgun is a person described in subparagraph (I) of paragraph  
17 (2) of subdivision (u), on the date that the person is delivered the  
18 firearm, the name and other information concerning the person  
19 taking possession of the firearm, how title or possession of the  
20 firearm was obtained and from whom, and a description of the  
21 firearm by make, model, serial number, and other identifying  
22 characteristics, shall be entered into the Automated Firearms  
23 System (AFS) via the California Law Enforcement  
24 Telecommunications System (CLETS) by the law enforcement or  
25 state agency that transferred or delivered the firearm. Those  
26 agencies without access to AFS shall arrange with the sheriff of  
27 the county in which the agency is located to input this  
28 information via this system.

29 (D) Where the person receiving title or possession of the  
30 handgun is a person described in subparagraph (J) of paragraph  
31 (2) of subdivision (u), on the date that the person is delivered the  
32 firearm, the name and other information concerning the person  
33 taking possession of the firearm, how title or possession of the  
34 firearm was obtained and from whom, and a description of the  
35 firearm by make, model, serial number, and other identifying  
36 characteristics, shall be entered into the AFS via the CLETS by  
37 the law enforcement or state agency that transferred or delivered  
38 the firearm. Those agencies without access to AFS shall arrange  
39 with the sheriff of the county in which the agency is located to  
40 input this information via this system. In addition, that law



1 enforcement agency shall not deliver that handgun to the person  
2 referred to in this subparagraph unless, prior to the delivery of  
3 the same, the person presents proof to the agency that he or she is  
4 the holder of a handgun safety certificate.

5 (3) Subdivision (d) of Section 12072 shall not apply to a  
6 person who takes possession of a firearm by operation of law in a  
7 representative capacity who subsequently transfers ownership of  
8 the firearm to himself or herself in his or her individual capacity.  
9 In the case of a handgun, the individual shall obtain a handgun  
10 safety certificate prior to transferring ownership to himself or  
11 herself, or taking possession of a handgun in an individual  
12 capacity.

13 (j) Subdivision (d) of Section 12072 and subdivision (b) of  
14 Section 12801 shall not apply to deliveries, transfers, or returns  
15 of firearms made pursuant to Section 12021.3, 12028, 12028.5,  
16 or 12030.

17 (k) Section 12071, subdivision (c) of Section 12072, and  
18 subdivision (b) of Section 12801 shall not apply to any of the  
19 following:

20 (1) The delivery, sale, or transfer of unloaded firearms that are  
21 not handguns by a dealer to another dealer upon proof of  
22 compliance with the requirements of paragraph (1) of subdivision  
23 (f) of Section 12072.

24 (2) The delivery, sale, or transfer of unloaded firearms by  
25 dealers to persons who reside outside this state who are licensed  
26 pursuant to Chapter 44 (commencing with Section 921) of Title  
27 18 of the United States Code and the regulations issued pursuant  
28 thereto.

29 (3) The delivery, sale, or transfer of unloaded firearms to a  
30 wholesaler if the firearms are being returned to the wholesaler  
31 and are intended as merchandise in the wholesaler's business.

32 (4) The delivery, sale, or transfer of unloaded firearms by one  
33 dealer to another dealer if the firearms are intended as  
34 merchandise in the receiving dealer's business upon proof of  
35 compliance with the requirements of paragraph (1) of subdivision  
36 (f) of Section 12072.

37 (5) The delivery, sale, or transfer of an unloaded firearm that  
38 is not a handgun by a dealer to himself or herself.

39 (6) The loan of an unloaded firearm by a dealer who also  
40 operates a target facility that holds a business or regulatory

1 license on the premises of the building designated in the license  
2 or whose building designated in the license is on the premises of  
3 any club or organization organized for the purposes of practicing  
4 shooting at targets upon established ranges, whether public or  
5 private, to a person at that target facility or that club or  
6 organization, if the firearm is at all times kept within the  
7 premises of the target range or on the premises of the club or  
8 organization.

9 (l) A person who is exempt from subdivision (d) of Section  
10 12072 or is otherwise not required by law to report his or her  
11 acquisition, ownership, or disposal of a handgun or who moves  
12 out of this state with his or her handgun may submit a report of  
13 the same to the Department of Justice in a format prescribed by  
14 the department.

15 (m) Subdivision (d) of Section 12072 and subdivision (b) of  
16 Section 12801 shall not apply to the delivery, sale, or transfer of  
17 unloaded firearms to a wholesaler as merchandise in the  
18 wholesaler's business by manufacturers or importers licensed to  
19 engage in that business pursuant to Chapter 44 (commencing  
20 with Section 921) of Title 18 of the United States Code and the  
21 regulations issued pursuant thereto, or by another wholesaler, if  
22 the delivery, sale, or transfer is made in accordance with Chapter  
23 44 (commencing with Section 921) of Title 18 of the United  
24 States Code.

25 (n) (1) The waiting period described in Section 12071 or  
26 12072 shall not apply to the delivery, sale, or transfer of a  
27 handgun by a dealer in either of the following situations:

28 (A) The dealer is delivering the firearm to another dealer and  
29 it is not intended as merchandise in the receiving dealer's  
30 business.

31 (B) The dealer is delivering the firearm to himself or herself  
32 and it is not intended as merchandise in his or her business.

33 (2) In order for this subdivision to apply, both of the following  
34 shall occur:

35 (A) If the dealer is receiving the firearm from another dealer,  
36 the dealer receiving the firearm shall present proof to the dealer  
37 delivering the firearm that he or she is licensed pursuant to  
38 Section 12071 by complying with paragraph (1) of subdivision  
39 (f) of Section 12072.

(B) Whether the dealer is delivering, selling, or transferring the firearm to himself or herself or to another dealer, on the date that the application to purchase is completed, the dealer delivering the firearm shall forward by prepaid mail to the Department of Justice a report of the same and the type of information concerning the purchaser or transferee as is indicated in subdivision (b) of Section 12077. Where the electronic or telephonic transfer of applicant information is used, on the date that the application to purchase is completed, the dealer delivering the firearm shall transmit an electronic or telephonic report of the same and the type of information concerning the purchaser or transferee as is indicated in subdivision (b) of Section 12077.

(o) Section 12071 and subdivisions (c) and (d) of Section 12072 shall not apply to the delivery, sale, or transfer of firearms regulated pursuant to Section 12020, Chapter 2 (commencing with Section 12200), or Chapter 2.3 (commencing with Section 12275), if the delivery, sale, or transfer is conducted in accordance with the applicable provisions of Section 12020, Chapter 2 (commencing with Section 12200), or Chapter 2.3 (commencing with Section 12275).

(p) (1) Paragraph (3) of subdivision (a) and subdivision (d) of Section 12072 shall not apply to the loan of a firearm that is not a handgun to a minor, with the express permission of the parent or legal guardian of the minor, if the loan does not exceed 30 days in duration and is for a lawful purpose.

(2) Paragraph (3) of subdivision (a) of Section 12072, subdivision (d) of Section 12072, and subdivision (b) of Section 12801 shall not apply to the loan of a handgun to a minor by a person who is not the parent or legal guardian of the minor if all of the following circumstances exist:

(A) The minor has the written consent of his or her parent or legal guardian that is presented at the time of, or prior to the time of, the loan, or is accompanied by his or her parent or legal guardian at the time the loan is made.

(B) The minor is being loaned the firearm for the purpose of engaging in a lawful, recreational sport, including, but not limited to, competitive shooting, or agricultural, ranching, or hunting activity, or a motion picture, television, or video

1 production, or entertainment or theatrical event, the nature of  
2 which involves the use of a firearm.

3 (C) The duration of the loan does not exceed the amount of  
4 time that is reasonably necessary to engage in the lawful,  
5 recreational sport, including, but not limited to, competitive  
6 shooting, or agricultural, ranching, or hunting activity, or a  
7 motion picture, television, or video production, or entertainment  
8 or theatrical event, the nature of which involves the use of a  
9 firearm.

10 (D) The duration of the loan does not, in any event, exceed 10  
11 days.

12 (3) Paragraph (3) of subdivision (a), and subdivision (d), of  
13 Section 12072, and subdivision (b) of Section 12801 shall not  
14 apply to the loan of a handgun to a minor by his or her parent or  
15 legal guardian if both of the following circumstances exist:

16 (A) The minor is being loaned the firearm for the purposes of  
17 engaging in a lawful, recreational sport, including, but not  
18 limited to, competitive shooting, or agricultural, ranching, or  
19 hunting activity, or a motion picture, television, or video  
20 production, or entertainment or theatrical event, the nature of  
21 which involves the use of a firearm.

22 (B) The duration of the loan does not exceed the amount of  
23 time that is reasonably necessary to engage in the lawful,  
24 recreational sport, including, but not limited to, competitive  
25 shooting, or agricultural, ranching, or hunting activity, or a  
26 motion picture, television, or video production, or entertainment  
27 or theatrical event, the nature of which involves the use of a  
28 firearm.

29 (4) Paragraph (3) of subdivision (a), and subdivision (d), of  
30 Section 12072 shall not apply to the transfer or loan of a firearm  
31 that is not a handgun to a minor by his or her parent or legal  
32 guardian.

33 (5) Paragraph (3) of subdivision (a), and subdivision (d), of  
34 Section 12072 shall not apply to the transfer or loan of a firearm  
35 that is not a handgun to a minor by his or her grandparent who is  
36 not the legal guardian of the minor if the transfer is done with the  
37 express permission of the parent or legal guardian of the minor.

38 (6) Subparagraph (A) of paragraph (3) of subdivision (a) of  
39 Section 12072 shall not apply to the sale of a handgun if both of  
40 the following requirements are satisfied:

1 (A) The sale is to a person who is at least 18 years of age.

2 (B) The firearm is an antique firearm as defined in paragraph  
3 (16) of subsection (a) of Section 921 of Title 18 of the United  
4 States Code.

5 (q) Subdivision (d) of Section 12072 shall not apply to the  
6 loan of a firearm that is not a handgun to a licensed hunter for  
7 use by that licensed hunter for a period of time not to exceed the  
8 duration of the hunting season for which that firearm is to be  
9 used.

10 (r) The waiting period described in Section 12071 or 12072  
11 shall not apply to the delivery, sale, or transfer of a firearm to the  
12 holder of a special weapons permit issued by the Department of  
13 Justice issued pursuant to Section 12095, 12230, 12250, or  
14 12305. On the date that the application to purchase is completed,  
15 the dealer delivering the firearm shall transmit to the Department  
16 of Justice an electronic or telephonic report of the same as is  
17 indicated in subdivision (b) or (c) of Section 12077.

18 (s) (1) Subdivision (d) of Section 12072 and subdivision (b)  
19 of Section 12801 shall not apply to the infrequent loan of an  
20 unloaded firearm by a person who is neither a dealer as defined  
21 in Section 12071 nor a federal firearms licensee pursuant to  
22 Chapter 44 of Title 18 of the United States Code, to a person 18  
23 years of age or older for use solely as a prop in a motion picture,  
24 television, video, theatrical, or other entertainment production or  
25 event.

26 (2) Subdivision (d), and paragraph (1) of subdivision (f), of  
27 Section 12072, and subdivision (b) of Section 12801 shall not  
28 apply to the loan of an unloaded firearm by a person who is not a  
29 dealer as defined in Section 12071 but who is a federal firearms  
30 licensee pursuant to Chapter 44 of Title 18 of the United States  
31 Code, to a person who possesses a valid entertainment firearms  
32 permit issued pursuant to Section 12081, for use solely as a prop  
33 in a motion picture, television, video, theatrical, or other  
34 entertainment production or event. The person loaning the  
35 firearm pursuant to this paragraph shall retain a photocopy of the  
36 entertainment firearms permit as proof of compliance with this  
37 requirement.

38 (3) Subdivision (b) of Section 12071, subdivision (c) of, and  
39 paragraph (1) of subdivision (f) of, Section 12072, and  
40 subdivision (b) of Section 12801 shall not apply to the loan of an

1 unloaded firearm by a dealer as defined in Section 12071, to a  
2 person who possesses a valid entertainment firearms permit  
3 issued pursuant to Section 12081, for use solely as a prop in a  
4 motion picture, television, video, theatrical, or other  
5 entertainment production or event. The dealer shall retain a  
6 photocopy of the entertainment firearms permit as proof of  
7 compliance with this requirement.

8 (t) (1) The waiting period described in Section 12071 or  
9 12072 shall not apply to the sale, delivery, loan, or transfer of a  
10 firearm that is a curio or relic, as defined in Section 478.11 of  
11 Title 27 of the Code of Federal Regulations, or its successor, by a  
12 dealer to a person who is licensed as a collector pursuant to  
13 Chapter 44 (commencing with Section 921) of Title 18 of the  
14 United States Code and the regulations issued pursuant thereto  
15 who has a current certificate of eligibility issued to him or her by  
16 the Department of Justice pursuant to Section 12071. On the date  
17 that the delivery, sale, or transfer is made, the dealer delivering  
18 the firearm shall transmit to the Department of Justice an  
19 electronic or telephonic report of the transaction as is indicated in  
20 subdivision (b) or (c) of Section 12077.

21 (2) Subdivision (d) of Section 12072 shall not apply to the  
22 infrequent sale, loan, or transfer of a firearm that is not a  
23 handgun, which is a curio or relic manufactured at least 50 years  
24 prior to the current date, but not including replicas thereof, as  
25 defined in Section 478.11 of Title 27 of the Code of Federal  
26 Regulations, or its successor.

27 (u) As used in this section:

28 (1) "Infrequent" has the same meaning as in paragraph (1) of  
29 subdivision (c) of Section 12070.

30 (2) "A person taking title or possession of firearms by  
31 operation of law" includes, but is not limited to, any of the  
32 following instances wherein an individual receives title to, or  
33 possession of, firearms:

34 (A) The executor or administrator of an estate if the estate  
35 includes firearms.

36 (B) A secured creditor or an agent or employee thereof when  
37 the firearms are possessed as collateral for, or as a result of, a  
38 default under a security agreement under the Commercial Code.

39 (C) A levying officer, as defined in Section 481.140, 511.060,  
40 or 680.260 of the Code of Civil Procedure.

1 (D) A receiver performing his or her functions as a receiver if  
2 the receivership estate includes firearms.

3 (E) A trustee in bankruptcy performing his or her duties if the  
4 bankruptcy estate includes firearms.

5 (F) An assignee for the benefit of creditors performing his or  
6 her functions as an assignee, if the assignment includes firearms.

7 (G) A transmutation of property consisting of firearms  
8 pursuant to Section 850 of the Family Code.

9 (H) Firearms passing to a surviving spouse pursuant to  
10 Chapter 1 (commencing with Section 13500) of Part 2 of  
11 Division 8 of the Probate Code.

12 (I) Firearms received by the family of a police officer or  
13 deputy sheriff from a local agency pursuant to Section 50081 of  
14 the Government Code.

15 (J) The transfer of a firearm by a law enforcement agency to  
16 the person who found the firearm where the delivery is to the  
17 person as the finder of the firearm pursuant to Article 1  
18 (commencing with Section 2080) of Chapter 4 of Division 3 of  
19 the Civil Code.

20 SEC. 12.5. Section 12078 of the Penal Code is amended to  
21 read:

22 12078. (a) (1) The waiting periods described in Sections  
23 12071 and 12072 shall not apply to deliveries, transfers, or sales  
24 of firearms made to persons properly identified as full-time paid  
25 peace officers as defined in Chapter 4.5 (commencing with  
26 Section 830) of Title 3 of Part 2, provided that the peace officers  
27 are authorized by their employer to carry firearms while in the  
28 performance of their duties. Proper identification is defined as  
29 verifiable written certification from the head of the agency by  
30 which the purchaser or transferee is employed, identifying the  
31 purchaser or transferee as a peace officer who is authorized to  
32 carry firearms while in the performance of his or her duties, and  
33 authorizing the purchase or transfer. The certification shall be  
34 delivered to the dealer at the time of purchase or transfer and the  
35 purchaser or transferee shall identify himself or herself as the  
36 person authorized in the certification. The dealer shall keep the  
37 certification with the record of sale. On the date that the delivery,  
38 sale, or transfer is made, the dealer delivering the firearm shall  
39 transmit to the Department of Justice an electronic or telephonic

1 report of the transaction as is indicated in subdivision (b) or (c)  
2 of Section 12077.

3 (2) Subdivision (b) of Section 12801 and the preceding  
4 provisions of this article do not apply to deliveries, transfers, or  
5 sales of firearms made to authorized law enforcement  
6 representatives of cities, counties, cities and counties, or state or  
7 federal governments for exclusive use by those governmental  
8 agencies if, prior to the delivery, transfer, or sale of these  
9 firearms, written authorization from the head of the agency  
10 authorizing the transaction is presented to the person from whom  
11 the purchase, delivery, or transfer is being made. Proper written  
12 authorization is defined as verifiable written certification from  
13 the head of the agency by which the purchaser or transferee is  
14 employed, identifying the employee as an individual authorized  
15 to conduct the transaction, and authorizing the transaction for the  
16 exclusive use of the agency by which he or she is employed.  
17 Within 10 days of the date a handgun is acquired by the agency,  
18 a record of the same shall be entered as an institutional weapon  
19 into the Automated Firearms System (AFS) via the California  
20 Law Enforcement Telecommunications System (CLETS) by the  
21 law enforcement or state agency. Those agencies without access  
22 to AFS shall arrange with the sheriff of the county in which the  
23 agency is located to input this information via this system.

24 (3) Subdivision (b) of Section 12801 and the preceding  
25 provisions of this article do not apply to the loan of a firearm  
26 made by an authorized law enforcement representative of a city,  
27 county, or city and county, or the state or federal government to a  
28 peace officer employed by that agency and authorized to carry a  
29 firearm for the carrying and use of that firearm by that peace  
30 officer in the course and scope of his or her duties.

31 (4) Subdivision (b) of Section 12801 and the preceding  
32 provisions of this article do not apply to the delivery, sale, or  
33 transfer of a firearm by a law enforcement agency to a peace  
34 officer pursuant to Section 10334 of the Public Contract Code.  
35 Within 10 days of the date that a handgun is sold, delivered, or  
36 transferred pursuant to Section 10334 of the Public Contract  
37 Code to that peace officer, the name of the officer and the make,  
38 model, serial number, and other identifying characteristics of the  
39 firearm being sold, transferred, or delivered shall be entered into  
40 the Automated Firearms System (AFS) via the California Law



1 Enforcement Telecommunications System (CLETS) by the law  
2 enforcement or state agency that sold, transferred, or delivered  
3 the firearm. Those agencies without access to AFS shall arrange  
4 with the sheriff of the county in which the agency is located to  
5 input this information via this system.

6 (5) Subdivision (b) of Section 12801 and the preceding  
7 provisions of this article do not apply to the delivery, sale, or  
8 transfer of a firearm by a law enforcement agency to a retiring  
9 peace officer who is authorized to carry a firearm pursuant to  
10 Section 12027.1. Within 10 days of the date that a handgun is  
11 sold, delivered, or transferred to that retiring peace officer, the  
12 name of the officer and the make, model, serial number, and  
13 other identifying characteristics of the firearm being sold,  
14 transferred, or delivered shall be entered into the Automated  
15 Firearms System (AFS) via the California Law Enforcement  
16 Telecommunications System (CLETS) by the law enforcement or  
17 state agency that sold, transferred, or delivered the firearm.  
18 Those agencies without access to AFS shall arrange with the  
19 sheriff of the county in which the agency is located to input this  
20 information via this system.

21 (6) Subdivision (d) of Section 12072 and subdivision (b) of  
22 Section 12801 do not apply to sales, deliveries, or transfers of  
23 firearms to authorized representatives of cities, cities and  
24 counties, counties, or state or federal governments for those  
25 governmental agencies where the entity is acquiring the weapon  
26 as part of an authorized, voluntary program where the entity is  
27 buying or receiving weapons from private individuals. Any  
28 weapons acquired pursuant to this paragraph shall be disposed of  
29 pursuant to the applicable provisions of Section 12028 or 12032.

30 (7) Subdivision (d) of Section 12072 and subdivision (b) of  
31 Section 12801 shall not apply to the sale, loan, delivery, or  
32 transfer of a firearm made by an authorized law enforcement  
33 representative of a city, county, city and county, state, or the  
34 federal government to any public or private nonprofit historical  
35 society, museum, or institutional collection or the purchase or  
36 receipt of that firearm by that public or private nonprofit  
37 historical society, museum, or institutional collection if all of the  
38 following conditions are met:

39 (A) The entity receiving the firearm is open to the public.

1 (B) The firearm prior to delivery is deactivated or rendered  
2 inoperable.

3 (C) The firearm is not subject to Section 12028, 12028.5,  
4 12030, or 12032.

5 (D) The firearm is not prohibited by other provisions of law  
6 from being sold, delivered, or transferred to the public at large.

7 (E) Prior to delivery, the entity receiving the firearm submits a  
8 written statement to the law enforcement representative stating  
9 that the firearm will not be restored to operating condition, and  
10 will either remain with that entity, or if subsequently disposed of,  
11 will be transferred in accordance with the applicable provisions  
12 of this article and, if applicable, Section 12801.

13 (F) Within 10 days of the date that the firearm is sold, loaned,  
14 delivered, or transferred to that entity, the name of the  
15 government entity delivering the firearm, and the make, model,  
16 serial number, and other identifying characteristics of the firearm  
17 and the name of the person authorized by the entity to take  
18 possession of the firearm shall be reported to the department in a  
19 manner prescribed by the department.

20 (G) In the event of a change in the status of the designated  
21 representative, the entity shall notify the department of a new  
22 representative within 30 days.

23 (8) Subdivision (d) of Section 12072 and subdivision (b) of  
24 Section 12801 shall not apply to the sale, loan, delivery, or  
25 transfer of a firearm made by any person other than a  
26 representative of an authorized law enforcement agency to any  
27 public or private nonprofit historical society, museum, or  
28 institutional collection if all of the following conditions are met:

29 (A) The entity receiving the firearm is open to the public.

30 (B) The firearm is deactivated or rendered inoperable prior to  
31 delivery.

32 (C) The firearm is not of a type prohibited from being sold,  
33 delivered, or transferred to the public.

34 (D) Prior to delivery, the entity receiving the firearm submits a  
35 written statement to the person selling, loaning, or transferring  
36 the firearm stating that the firearm will not be restored to  
37 operating condition, and will either remain with that entity, or if  
38 subsequently disposed of, will be transferred in accordance with  
39 the applicable, provisions of this article and, if applicable Section  
40 12801.

1 (E) If title to a handgun is being transferred to the public or  
2 private nonprofit historical society, museum, or institutional  
3 collection, then the designated representative of that public or  
4 private historical society, museum or institutional collection  
5 within 30 days of taking possession of that handgun, shall  
6 forward by prepaid mail or deliver in person to the Department of  
7 Justice, a single report signed by both parties to the transaction,  
8 that includes information identifying the person representing that  
9 public or private historical society, museum, or institutional  
10 collection, how title was obtained and from whom, and a  
11 description of the firearm in question, along with a copy of the  
12 written statement referred to in subparagraph (D). The report  
13 forms that are to be completed pursuant to this paragraph shall be  
14 provided by the Department of Justice.

15 (F) In the event of a change in the status of the designated  
16 representative, the entity shall notify the department of a new  
17 representative within 30 days.

18 (b) (1) Section 12071, subdivisions (c) and (d) of Section  
19 12072, and subdivision (b) of Section 12801 shall not apply to  
20 deliveries, sales, or transfers of firearms between or to importers  
21 and manufacturers of firearms licensed to engage in that business  
22 pursuant to Chapter 44 (commencing with Section 921) of Title  
23 18 of the United States Code and the regulations issued pursuant  
24 thereto.

25 (2) Subdivision (b) of Section 12801 shall not apply to the  
26 delivery, sale, or transfer of a handgun to a person licensed  
27 pursuant to Section 12071, where the licensee is receiving the  
28 handgun in the course and scope of his or her activities as a  
29 person licensed pursuant to Section 12071.

30 (c) (1) Subdivision (d) of Section 12072 shall not apply to the  
31 infrequent transfer of a firearm that is not a handgun by gift,  
32 bequest, intestate succession, or other means by one individual to  
33 another if both individuals are members of the same immediate  
34 family.

35 (2) Subdivision (d) of Section 12072 shall not apply to the  
36 infrequent transfer of a handgun by gift, bequest, intestate  
37 succession, or other means by one individual to another if both  
38 individuals are members of the same immediate family and all of  
39 the following conditions are met:

1 (A) The person to whom the firearm is transferred shall,  
2 within 30 days of taking possession of the firearm, forward by  
3 prepaid mail or deliver in person to the Department of Justice, a  
4 report that includes information concerning the individual taking  
5 possession of the firearm, how title was obtained and from  
6 whom, and a description of the firearm in question. The report  
7 forms that individuals complete pursuant to this paragraph shall  
8 be provided to them by the Department of Justice.

9 (B) The person taking title to the firearm shall first obtain a  
10 handgun safety certificate.

11 (C) The person receiving the firearm is 18 years of age or  
12 older.

13 (3) As used in this subdivision, “immediate family member”  
14 means any one of the following relationships:

15 (A) Parent and child.

16 (B) Grandparent and grandchild.

17 (d) (1) Subdivision (d) of Section 12072 shall not apply to the  
18 infrequent loan of firearms between persons who are personally  
19 known to each other for any lawful purpose, if the loan does not  
20 exceed 30 days in duration and, when the firearm is a handgun,  
21 commencing January 1, 2003, the individual being loaned the  
22 handgun has a valid handgun safety certificate.

23 (2) Subdivision (d) of Section 12072, and subdivision (b) of  
24 Section 12801 shall not apply to the loan of a firearm where all  
25 of the following conditions exist:

26 (A) The person loaning the firearm is at all times within the  
27 presence of the person being loaned the firearm.

28 (B) The loan is for a lawful purpose.

29 (C) The loan does not exceed three days in duration.

30 (D) The individual receiving the firearm is not prohibited from  
31 owning or possessing a firearm pursuant to Section 12021 or  
32 12021.1 of this code, or by Section 8100 or 8103 of the Welfare  
33 and Institutions Code.

34 (E) The person loaning the firearm is 18 years of age or older.

35 (F) The person being loaned the firearm is 18 years of age or  
36 older.

37 (e) Section 12071, subdivisions (c) and (d) of Section 12072,  
38 and subdivision (b) of Section 12801 shall not apply to the  
39 delivery of a firearm to a gunsmith for service or repair, or to the  
40 return of the firearm to its owner by the gunsmith.

(f) Subdivision (d) of Section 12072 and subdivision (b) of Section 12801 shall not apply to the sale, delivery, or transfer of firearms by persons who reside in this state to persons who reside outside this state who are licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto, if the sale, delivery, or transfer is in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(g) (1) Subdivision (d) of Section 12072 shall not apply to the infrequent sale or transfer of a firearm, other than a handgun, at auctions or similar events conducted by nonprofit mutual or public benefit corporations organized pursuant to the Corporations Code.

As used in this paragraph, the term “infrequent” shall not be construed to prohibit different local chapters of the same nonprofit corporation from conducting auctions or similar events, provided the individual local chapter conducts the auctions or similar events infrequently. It is the intent of the Legislature that different local chapters, representing different localities, be entitled to invoke the exemption created by this paragraph, notwithstanding the frequency with which other chapters of the same nonprofit corporation may conduct auctions or similar events.

(2) Subdivision (d) of Section 12072 shall not apply to the transfer of a firearm other than a handgun, if the firearm is donated for an auction or similar event described in paragraph (1) and the firearm is delivered to the nonprofit corporation immediately preceding, or contemporaneous with, the auction or similar event.

(3) The waiting period described in Sections 12071 and 12072 shall not apply to a dealer who delivers a firearm other than a handgun at an auction or similar event described in paragraph (1), as authorized by subparagraph (C) of paragraph (1) of subdivision (b) of Section 12071. Within two business days of completion of the application to purchase, the dealer shall forward by prepaid mail to the Department of Justice a report of the same as is indicated in subdivision (c) of Section 12077. If the electronic or telephonic transfer of applicant information is used, within two business days of completion of the application

1 to purchase, the dealer delivering the firearm shall transmit to the  
2 Department of Justice an electronic or telephonic report of the  
3 same as is indicated in subdivision (c) of Section 12077.

4 (h) Subdivision (d) of Section 12072 and subdivision (b) of  
5 Section 12801 shall not apply to the loan of a firearm to a person  
6 18 years of age or older for the purposes of shooting at targets if  
7 the loan occurs on the premises of a target facility that holds a  
8 business or regulatory license or on the premises of any club or  
9 organization organized for the purposes of practicing shooting at  
10 targets upon established ranges, whether public or private, if the  
11 firearm is at all times kept within the premises of the target range  
12 or on the premises of the club or organization.

13 (i) (1) Subdivision (d) of Section 12072 shall not apply to a  
14 person who takes title or possession of a firearm that is not a  
15 handgun by operation of law if the person is not prohibited by  
16 Section 12021 or 12021.1 of this code or Section 8100 or 8103 of  
17 the Welfare and Institutions Code from possessing firearms.

18 (2) Subdivision (d) of Section 12072 shall not apply to a  
19 person who takes title or possession of a handgun by operation of  
20 law if the person is not prohibited by Section 12021 or 12021.1  
21 of this code or Section 8100 or 8103 of the Welfare and  
22 Institutions Code from possessing firearms and all of the  
23 following conditions are met:

24 (A) If the person taking title or possession is neither a levying  
25 officer as defined in Section 481.140, 511.060, or 680.210 of the  
26 Code of Civil Procedure, nor a person who is receiving that  
27 firearm pursuant to subparagraph (G), (I), or (J) of paragraph (2)  
28 of subdivision (u), the person shall, within 30 days of taking  
29 possession, forward by prepaid mail or deliver in person to the  
30 Department of Justice, a report of information concerning the  
31 individual taking possession of the firearm, how title or  
32 possession was obtained and from whom, and a description of the  
33 firearm in question. The reports that individuals complete  
34 pursuant to this paragraph shall be provided to them by the  
35 department.

36 (B) If the person taking title or possession is receiving the  
37 firearm pursuant to subparagraph (G) of paragraph (2) of  
38 subdivision (u), the person shall do both of the following:

39 (i) Within 30 days of taking possession, forward by prepaid  
40 mail or deliver in person to the department, a report of

1 information concerning the individual taking possession of the  
2 firearm, how title or possession was obtained and from whom,  
3 and a description of the firearm in question. The reports that  
4 individuals complete pursuant to this paragraph shall be provided  
5 to them by the department.

6 (ii) Prior to taking title or possession of the firearm, the person  
7 shall obtain a handgun safety certificate.

8 (C) Where the person receiving title or possession of the  
9 handgun is a person described in subparagraph (I) of paragraph  
10 (2) of subdivision (u), on the date that the person is delivered the  
11 firearm, the name and other information concerning the person  
12 taking possession of the firearm, how title or possession of the  
13 firearm was obtained and from whom, and a description of the  
14 firearm by make, model, serial number, and other identifying  
15 characteristics, shall be entered into the Automated Firearms  
16 System (AFS) via the California Law Enforcement  
17 Telecommunications System (CLETS) by the law enforcement or  
18 state agency that transferred or delivered the firearm. Those  
19 agencies without access to AFS shall arrange with the sheriff of  
20 the county in which the agency is located to input this  
21 information via this system.

22 (D) Where the person receiving title or possession of the  
23 handgun is a person described in subparagraph (J) of paragraph  
24 (2) of subdivision (u), on the date that the person is delivered the  
25 firearm, the name and other information concerning the person  
26 taking possession of the firearm, how title or possession of the  
27 firearm was obtained and from whom, and a description of the  
28 firearm by make, model, serial number, and other identifying  
29 characteristics, shall be entered into the AFS via the CLETS by  
30 the law enforcement or state agency that transferred or delivered  
31 the firearm. Those agencies without access to AFS shall arrange  
32 with the sheriff of the county in which the agency is located to  
33 input this information via this system. In addition, that law  
34 enforcement agency shall not deliver that handgun to the person  
35 referred to in this subparagraph unless, prior to the delivery of  
36 the same, the person presents proof to the agency that he or she is  
37 the holder of a handgun safety certificate.

38 (3) Subdivision (d) of Section 12072 shall not apply to a  
39 person who takes possession of a firearm by operation of law in a  
40 representative capacity who subsequently transfers ownership of

1 the firearm to himself or herself in his or her individual capacity.  
2 In the case of a handgun, the individual shall obtain a handgun  
3 safety certificate prior to transferring ownership to himself or  
4 herself, or taking possession of a handgun in an individual  
5 capacity.

6 (j) Subdivision (d) of Section 12072 and subdivision (b) of  
7 Section 12801 shall not apply to deliveries, transfers, or returns  
8 of firearms made pursuant to Section 12021.3, 12028, 12028.5,  
9 or 12030.

10 (k) Section 12071, subdivision (c) of Section 12072, and  
11 subdivision (b) of Section 12801 shall not apply to any of the  
12 following:

13 (1) The delivery, sale, or transfer of unloaded firearms that are  
14 not handguns by a dealer to another dealer upon proof of  
15 compliance with the requirements of paragraph (1) of subdivision  
16 (f) of Section 12072.

17 (2) The delivery, sale, or transfer of unloaded firearms by  
18 dealers to persons who reside outside this state who are licensed  
19 pursuant to Chapter 44 (commencing with Section 921) of Title  
20 18 of the United States Code and the regulations issued pursuant  
21 thereto.

22 (3) The delivery, sale, or transfer of unloaded firearms to a  
23 wholesaler if the firearms are being returned to the wholesaler  
24 and are intended as merchandise in the wholesaler's business.

25 (4) The delivery, sale, or transfer of unloaded firearms by one  
26 dealer to another dealer if the firearms are intended as  
27 merchandise in the receiving dealer's business upon proof of  
28 compliance with the requirements of paragraph (1) of subdivision  
29 (f) of Section 12072.

30 (5) The delivery, sale, or transfer of an unloaded firearm that  
31 is not a handgun by a dealer to himself or herself.

32 (6) The loan of an unloaded firearm by a dealer who also  
33 operates a target facility that holds a business or regulatory  
34 license on the premises of the building designated in the license  
35 or whose building designated in the license is on the premises of  
36 any club or organization organized for the purposes of practicing  
37 shooting at targets upon established ranges, whether public or  
38 private, to a person at that target facility or that club or  
39 organization, if the firearm is at all times kept within the



1 premises of the target range or on the premises of the club or  
2 organization.

3 (l) A person who is exempt from subdivision (d) of Section  
4 12072 or is otherwise not required by law to report his or her  
5 acquisition, ownership, or disposal of a handgun or who moves  
6 out of this state with his or her handgun may submit a report of  
7 the same to the Department of Justice in a format prescribed by  
8 the department.

9 (m) Subdivision (d) of Section 12072 and subdivision (b) of  
10 Section 12801 shall not apply to the delivery, sale, or transfer of  
11 unloaded firearms to a wholesaler as merchandise in the  
12 wholesaler's business by manufacturers or importers licensed to  
13 engage in that business pursuant to Chapter 44 (commencing  
14 with Section 921) of Title 18 of the United States Code and the  
15 regulations issued pursuant thereto, or by another wholesaler, if  
16 the delivery, sale, or transfer is made in accordance with Chapter  
17 44 (commencing with Section 921) of Title 18 of the United  
18 States Code.

19 (n) (1) The waiting period described in Section 12071 or  
20 12072 shall not apply to the delivery, sale, or transfer of a  
21 handgun by a dealer in either of the following situations:

22 (A) The dealer is delivering the firearm to another dealer and  
23 it is not intended as merchandise in the receiving dealer's  
24 business.

25 (B) The dealer is delivering the firearm to himself or herself  
26 and it is not intended as merchandise in his or her business.

27 (2) In order for this subdivision to apply, both of the following  
28 shall occur:

29 (A) If the dealer is receiving the firearm from another dealer,  
30 the dealer receiving the firearm shall present proof to the dealer  
31 delivering the firearm that he or she is licensed pursuant to  
32 Section 12071 by complying with paragraph (1) of subdivision  
33 (f) of Section 12072.

34 (B) Whether the dealer is delivering, selling, or transferring  
35 the firearm to himself or herself or to another dealer, on the date  
36 that the application to purchase is completed, the dealer  
37 delivering the firearm shall forward by prepaid mail to the  
38 Department of Justice a report of the same and the type of  
39 information concerning the purchaser or transferee as is indicated  
40 in subdivision (b) of Section 12077. Where the electronic or

1 telephonic transfer of applicant information is used, on the date  
2 that the application to purchase is completed, the dealer  
3 delivering the firearm shall transmit an electronic or telephonic  
4 report of the same and the type of information concerning the  
5 purchaser or transferee as is indicated in subdivision (b) of  
6 Section 12077.

7 (o) Section 12071 and subdivisions (c), (d), and paragraph (1)  
8 of subdivision (f) of Section 12072 shall not apply to the  
9 delivery, sale, or transfer of firearms regulated pursuant to  
10 Section 12020, Chapter 2 (commencing with Section 12200), or  
11 Chapter 2.3 (commencing with Section 12275), if the delivery,  
12 sale, or transfer is conducted in accordance with the applicable  
13 provisions of Section 12020, Chapter 2 (commencing with  
14 Section 12200), or Chapter 2.3 (commencing with Section  
15 12275).

16 (p) (1) Paragraph (3) of subdivision (a) and subdivision (d) of  
17 Section 12072 shall not apply to the loan of a firearm that is not a  
18 handgun to a minor, with the express permission of the parent or  
19 legal guardian of the minor, if the loan does not exceed 30 days  
20 in duration and is for a lawful purpose.

21 (2) Paragraph (3) of subdivision (a) of Section 12072,  
22 subdivision (d) of Section 12072, and subdivision (b) of Section  
23 12801 shall not apply to the loan of a handgun to a minor by a  
24 person who is not the parent or legal guardian of the minor if all  
25 of the following circumstances exist:

26 (A) The minor has the written consent of his or her parent or  
27 legal guardian that is presented at the time of, or prior to the time  
28 of, the loan, or is accompanied by his or her parent or legal  
29 guardian at the time the loan is made.

30 (B) The minor is being loaned the firearm for the purpose of  
31 engaging in a lawful, recreational sport, including, but not  
32 limited to, competitive shooting, or agricultural, ranching, or  
33 hunting activity, or a motion picture, television, or video  
34 production, or entertainment or theatrical event, the nature of  
35 which involves the use of a firearm.

36 (C) The duration of the loan does not exceed the amount of  
37 time that is reasonably necessary to engage in the lawful,  
38 recreational sport, including, but not limited to, competitive  
39 shooting, or agricultural, ranching, or hunting activity, or a  
40 motion picture, television, or video production, or entertainment

1 or theatrical event, the nature of which involves the use of a  
2 firearm.

3 (D) The duration of the loan does not, in any event, exceed 10  
4 days.

5 (3) Paragraph (3) of subdivision (a), and subdivision (d), of  
6 Section 12072, and subdivision (b) of Section 12801 shall not  
7 apply to the loan of a handgun to a minor by his or her parent or  
8 legal guardian if both of the following circumstances exist:

9 (A) The minor is being loaned the firearm for the purposes of  
10 engaging in a lawful, recreational sport, including, but not  
11 limited to, competitive shooting, or agricultural, ranching, or  
12 hunting activity, or a motion picture, television, or video  
13 production, or entertainment or theatrical event, the nature of  
14 which involves the use of a firearm.

15 (B) The duration of the loan does not exceed the amount of  
16 time that is reasonably necessary to engage in the lawful,  
17 recreational sport, including, but not limited to, competitive  
18 shooting, or agricultural, ranching, or hunting activity, or a  
19 motion picture, television, or video production, or entertainment  
20 or theatrical event, the nature of which involves the use of a  
21 firearm.

22 (4) Paragraph (3) of subdivision (a), and subdivision (d), of  
23 Section 12072 shall not apply to the transfer or loan of a firearm  
24 that is not a handgun to a minor by his or her parent or legal  
25 guardian.

26 (5) Paragraph (3) of subdivision (a), and subdivision (d), of  
27 Section 12072 shall not apply to the transfer or loan of a firearm  
28 that is not a handgun to a minor by his or her grandparent who is  
29 not the legal guardian of the minor if the transfer is done with the  
30 express permission of the parent or legal guardian of the minor.

31 (6) Subparagraph (A) of paragraph (3) of subdivision (a) of  
32 Section 12072 shall not apply to the sale of a handgun if both of  
33 the following requirements are satisfied:

34 (A) The sale is to a person who is at least 18 years of age.

35 (B) The firearm is an antique firearm as defined in paragraph  
36 (16) of subsection (a) of Section 921 of Title 18 of the United  
37 States Code.

38 (q) Subdivision (d) of Section 12072 shall not apply to the  
39 loan of a firearm that is not a handgun to a licensed hunter for  
40 use by that licensed hunter for a period of time not to exceed the

1 duration of the hunting season for which that firearm is to be  
2 used.

3 (r) The waiting period described in Section 12071 or 12072  
4 shall not apply to the delivery, sale, or transfer of a firearm to the  
5 holder of a special weapons permit issued by the Department of  
6 Justice issued pursuant to Section 12095, 12230, 12250, or  
7 12305. On the date that the application to purchase is completed,  
8 the dealer delivering the firearm shall transmit to the Department  
9 of Justice an electronic or telephonic report of the same as is  
10 indicated in subdivision (b) or (c) of Section 12077.

11 (s) (1) Subdivision (d) of Section 12072 and subdivision (b)  
12 of Section 12801 shall not apply to the infrequent loan of an  
13 unloaded firearm by a person who is neither a dealer as defined  
14 in Section 12071 nor a federal firearms licensee pursuant to  
15 Chapter 44 of Title 18 of the United States Code, to a person 18  
16 years of age or older for use solely as a prop in a motion picture,  
17 television, video, theatrical, or other entertainment production or  
18 event.

19 (2) Subdivision (d), and paragraph (1) of subdivision (f), of  
20 Section 12072, and subdivision (b) of Section 12801 shall not  
21 apply to the loan of an unloaded firearm by a person who is not a  
22 dealer as defined in Section 12071 but who is a federal firearms  
23 licensee pursuant to Chapter 44 of Title 18 of the United States  
24 Code, to a person who possesses a valid entertainment firearms  
25 permit issued pursuant to Section 12081, for use solely as a prop  
26 in a motion picture, television, video, theatrical, or other  
27 entertainment production or event. The person loaning the  
28 firearm pursuant to this paragraph shall retain a photocopy of the  
29 entertainment firearms permit as proof of compliance with this  
30 requirement.

31 (3) Subdivision (b) of Section 12071, subdivision (c) of, and  
32 paragraph (1) of subdivision (f) of, Section 12072, and  
33 subdivision (b) of Section 12801 shall not apply to the loan of an  
34 unloaded firearm by a dealer as defined in Section 12071, to a  
35 person who possesses a valid entertainment firearms permit  
36 issued pursuant to Section 12081, for use solely as a prop in a  
37 motion picture, television, video, theatrical, or other  
38 entertainment production or event. The dealer shall retain a  
39 photocopy of the entertainment firearms permit as proof of  
40 compliance with this requirement.

(t) (1) The waiting period described in Section 12071 or 12072 shall not apply to the sale, delivery, loan, or transfer of a firearm that is a curio or relic, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, or its successor, by a dealer to a person who is licensed as a collector pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto who has a current certificate of eligibility issued to him or her by the Department of Justice pursuant to Section 12071. On the date that the delivery, sale, or transfer is made, the dealer delivering the firearm shall transmit to the Department of Justice an electronic or telephonic report of the transaction as is indicated in subdivision (b) or (c) of Section 12077.

(2) Subdivision (d) and paragraph (1) of subdivision (f) of Section 12072 shall not apply to the infrequent sale, loan, or transfer of a firearm that is not a handgun, which is a curio or relic manufactured at least 50 years prior to the current date, but not including replicas thereof, as defined in Section 478.11 of Title 27 of the Code of Federal Regulations, or its successor.

(u) As used in this section:

(1) “Infrequent” has the same meaning as in paragraph (1) of subdivision (c) of Section 12070.

(2) “A person taking title or possession of firearms by operation of law” includes, but is not limited to, any of the following instances wherein an individual receives title to, or possession of, firearms:

(A) The executor or administrator of an estate if the estate includes firearms.

(B) A secured creditor or an agent or employee thereof when the firearms are possessed as collateral for, or as a result of, a default under a security agreement under the Commercial Code.

(C) A levying officer, as defined in Section 481.140, 511.060, or 680.260 of the Code of Civil Procedure.

(D) A receiver performing his or her functions as a receiver if the receivership estate includes firearms.

(E) A trustee in bankruptcy performing his or her duties if the bankruptcy estate includes firearms.

(F) An assignee for the benefit of creditors performing his or her functions as an assignee, if the assignment includes firearms.

1 (G) A transmutation of property consisting of firearms  
2 pursuant to Section 850 of the Family Code.

3 (H) Firearms passing to a surviving spouse pursuant to  
4 Chapter 1 (commencing with Section 13500) of Part 2 of  
5 Division 8 of the Probate Code.

6 (I) Firearms received by the family of a police officer or  
7 deputy sheriff from a local agency pursuant to Section 50081 of  
8 the Government Code.

9 (J) The transfer of a firearm by a law enforcement agency to  
10 the person who found the firearm where the delivery is to the  
11 person as the finder of the firearm pursuant to Article 1  
12 (commencing with Section 2080) of Chapter 4 of Division 3 of  
13 the Civil Code.

14 SEC. 13. Section 12084 of the Penal Code is repealed.

15 SEC. 14. Section 12132 of the Penal Code is amended to  
16 read:

17 12132. This chapter shall not apply to any of the following:

18 (a) The sale, loan, or transfer of any firearm pursuant to  
19 Section 12082 in order to comply with subdivision (d) of Section  
20 12072.

21 (b) The sale, loan, or transfer of any firearm that is exempt  
22 from the provisions of subdivision (d) of Section 12072 pursuant  
23 to any applicable exemption contained in Section 12078, if the  
24 sale, loan, or transfer complies with the requirements of that  
25 applicable exemption to subdivision (d) of Section 12072.

26 (c) The sale, loan, or transfer of any firearm as described in  
27 paragraph (3) of subdivision (b) of Section 12125.

28 (d) The delivery of a pistol, revolver, or other firearm capable  
29 of being concealed upon the person to a person licensed pursuant  
30 to Section 12071 for the purposes of the service or repair of that  
31 firearm.

32 (e) The return of a pistol, revolver, or other firearm capable of  
33 being concealed upon the person by a person licensed pursuant to  
34 Section 12071 to its owner where that firearm was initially  
35 delivered in the circumstance set forth in subdivision (d).

36 (f) The return of a pistol, revolver, or other firearm capable of  
37 being concealed upon the person by a person licensed pursuant to  
38 Section 12071 to its owner where that firearm was initially  
39 delivered to that licensee for the purpose of a consignment sale or  
40 as collateral for a pawnbroker loan.

(g) The sale, loan, or transfer of any pistol, revolver, or other firearm capable of being concealed upon the person listed as a curio or relic, as defined in Section 178.11 of the Code of Federal Regulations.

(h) (1) The Legislature finds a significant public purpose in exempting pistols that are designed expressly for use in Olympic target shooting events. Therefore, those pistols that are sanctioned by the International Olympic Committee and by USA Shooting, the national governing body for international shooting competition in the United States, and that are used for Olympic target shooting purposes at the time that the act adding this subdivision is enacted, and that fall within the definition of “unsafe handgun” pursuant to paragraph (3) of subdivision (b) of Section 12126 shall be exempt, as provided in paragraphs (2) and (3).

(2) This chapter shall not apply to any of the following pistols, because they are consistent with the significant public purpose expressed in paragraph (1):

| MANUFACTURER | MODEL      | CALIBER      |
|--------------|------------|--------------|
| ANSCHUTZ     | FP         | .22LR        |
| BENELLI      | MP90       | .22LR        |
| BENELLI      | MP90       | .32 S&W LONG |
| BENELLI      | MP95       | .22LR        |
| BENELLI      | MP95       | .32 S&W LONG |
| DRULOV       | FP         | .22LR        |
| GREEN        | ELECTROARM | .22LR        |
| HAMMERLI     | 100        | .22LR        |
| HAMMERLI     | 101        | .22LR        |
| HAMMERLI     | 102        | .22LR        |
| HAMMERLI     | 162        | .22LR        |
| HAMMERLI     | 280        | .22LR        |
| HAMMERLI     | 280        | .32 S&W LONG |
| HAMMERLI     | FP10       | .22LR        |
| HAMMERLI     | MP33       | .22LR        |
| HAMMERLI     | SP20       | .22LR        |
| HAMMERLI     | SP20       | .32 S&W LONG |
| MORINI       | CM102E     | .22LR        |
| MORINI       | 22M        | .22LR        |
| MORINI       | 32M        | .32 S&W LONG |

|    |         |             |              |
|----|---------|-------------|--------------|
| 1  | MORINI  | CM80        | .22LR        |
| 2  | PARDINI | GP          | .22 SHORT    |
| 3  | PARDINI | GPO         | .22 SHORT    |
| 4  | PARDINI | GP-SCHUMANN | .22 SHORT    |
| 5  | PARDINI | HP          | .32 S&W LONG |
| 6  | PARDINI | K22         | .22LR        |
| 7  | PARDINI | MP          | .32 S&W LONG |
| 8  | PARDINI | PGP75       | .22LR        |
| 9  | PARDINI | SP          | .22LR        |
| 10 | PARDINI | SPE         | .22LR        |
| 11 | SAKO    | FINMASTER   | .22LR        |
| 12 | STEYR   | FP          | .22LR        |
| 13 | VOSTOK  | IZH NO. 1   | .22LR        |
| 14 | VOSTOK  | MU55        | .22LR        |
| 15 | VOSTOK  | TOZ35       | .22LR        |
| 16 | WALTHER | FP          | .22LR        |
| 17 | WALTHER | GSP         | .22LR        |
| 18 | WALTHER | GSP         | .32 S&W LONG |
| 19 | WALTHER | OSP         | .22 SHORT    |
| 20 | WALTHER | OSP-2000    | .22 SHORT    |

21

22 (3) The department shall create a program that is consistent  
 23 with the purpose stated in paragraph (1) to exempt new models of  
 24 competitive firearms from this chapter. The exempt competitive  
 25 firearms may be based on recommendations by USA Shooting  
 26 consistent with the regulations contained in the USA Shooting  
 27 Official Rules or may be based on the recommendation or rules  
 28 of any other organization that the department deems relevant.

29 (i) The sale, loan, or transfer of any semiautomatic pistol that  
 30 is to be used solely as a prop during the course of a motion  
 31 picture, television, or video production by an authorized  
 32 participant therein in the course of making that production or  
 33 event or by an authorized employee or agent of the entity  
 34 producing that production or event.

35 SEC. 15. Section 12305 of the Penal Code is amended to  
 36 read:

37 12305. (a) Every dealer, manufacturer, importer, and  
 38 exporter of any destructive device, or any motion picture or  
 39 television studio using destructive devices in the conduct of its



1 business, shall obtain a permit for the conduct of that business  
2 from the Department of Justice.

3 (b) Any person, firm, or corporation not mentioned in  
4 subdivision (a) shall obtain a permit from the Department of  
5 Justice in order to possess or transport any destructive device. No  
6 permit shall be issued to any person who meets any of the  
7 following criteria:

8 (1) Has been convicted of any felony.

9 (2) Is addicted to the use of any narcotic drug.

10 (3) Is a person in a class prohibited by Section 8100 or 8103 of  
11 the Welfare and Institutions Code or Section 12021 or 12021.1 of  
12 this code.

13 (c) Applications for permits shall be filed in writing, signed by  
14 the applicant if an individual, or by a member or officer qualified  
15 to sign if the applicant is a firm or corporation, and shall state the  
16 name, business in which engaged, business address and a full  
17 description of the use to which the destructive devices are to be  
18 put.

19 (d) Applications and permits shall be uniform throughout the  
20 state on forms prescribed by the Department of Justice.

21 (e) Each applicant for a permit shall pay at the time of filing  
22 his or her application a fee not to exceed the application  
23 processing costs of the Department of Justice. A permit granted  
24 pursuant to this article may be renewed one year from the date of  
25 issuance, and annually thereafter, upon the filing of a renewal  
26 application and the payment of a permit renewal fee not to  
27 exceed the application processing costs of the Department of  
28 Justice. After the department establishes fees sufficient in amount  
29 to cover processing costs, the amount of the fees shall only  
30 increase at a rate not to exceed the legislatively approved  
31 cost-of-living adjustment for the department.

32 (f) Except as provided in subdivision (g), the Department of  
33 Justice shall, for every person, firm, or corporation to whom a  
34 permit is issued pursuant to this article, annually conduct an  
35 inspection for security and safe storage purposes, and to  
36 reconcile the inventory of destructive devices.

37 (g) A person, firm, or corporation with an inventory of fewer  
38 than five devices that require any Department of Justice permit  
39 shall be subject to an inspection for security and safe storage

1 purposes, and to reconcile inventory, once every five years, or  
2 more frequently if determined by the department.

3 SEC. 16. Section 26 of Chapter 23 of the Statutes of 1994 is  
4 amended to read:

5 Sec. 26. The Legislature declares the following to be the  
6 public policy of this state:

7 (a) No person who buys or is transferred or is loaned a firearm  
8 that was conducted through a person acting under Section 12082  
9 of the Penal Code shall incur any civil liability for any illicit use  
10 or possession of the firearm prior to his or her taking possession  
11 of the firearm if the person had no knowledge of that conduct.

12 (b) No person holding a license under Section 12071 of the  
13 Penal Code when delivering firearms pursuant to Section 12082  
14 of the Penal Code shall assume any civil liability beyond that  
15 existing at the time of the effective date of this section when the  
16 person sells or transfers or loans any firearms out of his or her  
17 own stock, if that person otherwise complies with Section 12082  
18 of the Penal Code. No person acting as a dealer pursuant to  
19 Section 12071 of the Penal Code who is delivering firearms for  
20 third parties pursuant to Section 12082 of the Penal Code, and  
21 the firearms are not out of his or her own stock, shall assume any  
22 civil liability for any defects in those firearms unless he or she  
23 has actual knowledge of the defect.

24 (c) No person who transfers, sells, or loans a firearm through a  
25 dealer licensed pursuant to Section 12071 of the Penal Code in  
26 accordance with Section 12082 of the Penal Code and who  
27 otherwise complies with Article 3 (commencing with Section  
28 12070) of Chapter 1 of Title 2 of Part 4 of the Penal Code shall  
29 incur any civil liability for subsequent misuse of the firearm by  
30 the purchaser, transferee, or person being loaned that firearm if  
31 he or she had no knowledge of the misuse prior to the transfer,  
32 sale, or loan.

33 (d) The declarations contained in this section are declaratory  
34 of existing law.

35 SEC. 17. (a) Section 1.5 of this bill incorporates  
36 amendments to Section 11106 of the Penal Code proposed by  
37 both this bill and AB 1288. It shall only become operative if (1)  
38 both bills are enacted and become effective on or before January  
39 1, 2006, (2) each bill amends Section 11106 of the Penal Code,

1 and (3) this bill is enacted after AB 1288, in which case Section  
2 1 of this bill shall not become operative.

3 (b) Section 2.5 of this bill incorporates amendments to Section  
4 11108 of the Penal Code proposed by both this bill and AB 86. It  
5 shall only become operative if (1) both bills are enacted and  
6 become effective on or before January 1, 2006, (2) each bill  
7 amends Section 11108 of the Penal Code, and (3) this bill is  
8 enacted after AB 86, in which case Section 2 of this bill shall not  
9 become operative.

10 (c) Section 4.5 of this bill incorporates amendments to Section  
11 12001 of the Penal Code proposed by both this bill and SB 59. It  
12 shall only become operative if (1) both bills are enacted and  
13 become effective on or before January 1, 2006, (2) each bill  
14 amends Section 12001 of the Penal Code, and (3) this bill is  
15 enacted after SB 59, in which case Section 4 of this bill shall not  
16 become operative.

17 (d) Section 9.5 of this bill incorporates amendments to Section  
18 12071 of the Penal Code proposed by both this bill and AB 754.  
19 It shall only become operative if (1) both bills are enacted and  
20 become effective on or before January 1, 2006, (2) each bill  
21 amends Section 12071 of the Penal Code, and (3) this bill is  
22 enacted after AB 754, in which case Section 9 of this bill shall  
23 not become operative.

24 (e) Section 10.5 of this bill incorporates amendments to  
25 Section 12072 of the Penal Code proposed by both this bill and  
26 AB 754. It shall only become operative if (1) both bills are  
27 enacted and become effective on or before January 1, 2006, (2)  
28 each bill amends Section 12072 of the Penal Code, and (3) this  
29 bill is enacted after AB 754, in which case Section 10 of this bill  
30 shall not become operative.

31 (f) Section 11.5 of this bill incorporates amendments to  
32 Section 12076 of the Penal Code proposed by both this bill and  
33 AB 754. It shall become operative only if (1) both bills are  
34 enacted and become effective on or before January 1, 2006, (2)  
35 each bill amends Section 12076 of the Penal Code, and (3) this  
36 bill is enacted after AB 754, in which case Section 11 of this bill  
37 shall not become operative.

38 (g) Section 12.5 of this bill incorporates amendments to  
39 Section 12078 of the Penal Code proposed by both this bill and  
40 AB 754. It shall only become operative if (1) both bills are

1 enacted and become effective on or before January 1, 2006, (2)  
2 each bill amends Section 12078 of the Penal Code, and (3) this  
3 bill is enacted after AB 754, in which case Section 12 of this bill  
4 shall not become operative.

5 SEC. 18. If the Commission on State Mandates determines  
6 that this act contains costs mandated by the state, reimbursement  
7 to local agencies and school districts for those costs shall be  
8 made pursuant to Part 7 (commencing with Section 17500) of  
9 Division 4 of Title 2 of the Government Code.